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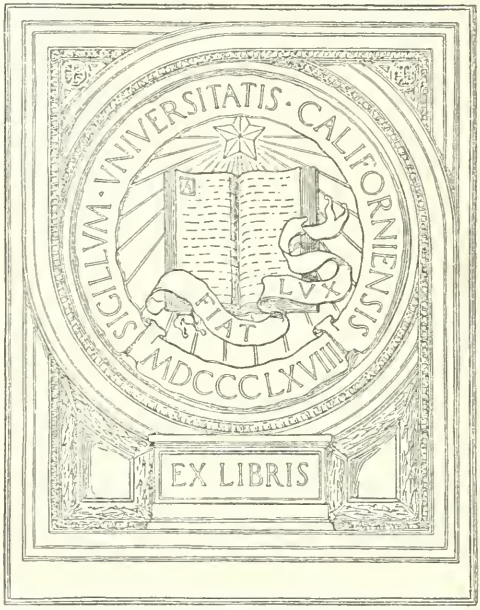

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SELECTED ARTICLES

ON

COMPULSORY INSURANCE

COMPILED BY
EDNA D. BULLOCK

NEW YORK
THE H. W. WILSON COMPANY
1918

EXPLANATORY NOTE

The selections in this handbook are designed to include information and argument on some of the questions arising out of what is generally called "social insurance". This may be defined as the formal provision made by or for working people against the vicissitudes of life—including sickness, industrial accident, invalidity, unemployment, old age and dependency.

The attention of thinking people all over the civilized world is being focused on this subject. Varied forms of legislative experiment are in progress—many new and interesting ones are being proposed. Many of the problems involve intricate legal technicalities that have no place in a compilation intended for popular use. These are included in the bibliography, which is wider in scope. The rapid march of events in the field of social insurance leads to constant review of the whole subject in the books and magazines. This renders much of the older literature of no particular value for the student—hence the exclusion from the bibliography of much excellent literature that has been superseded by more available material.

The general trend of legislation is toward compulsory insurance, and the title chosen for this volume is a recognition of this tendency. No one question for debate has been considered in the selections, but the following topics are suggested as among those most widely discussed in the United States:—

Is the German system of social insurance adapted to conditions in the United States?

Is compulsory state insurance the best form of insurance for working people?

What is the best provision against unemployment?

Should compulsory state insurance of workmen's compensation for industrial accidents be substituted for the existing forms of employers' liability laws in the United States?

Should a system of old age pensions be adopted?

In lieu of a brief, a résumé of the principal arguments on the general subject is included.

August, 1912.

CONTENTS

ARGUMENT FOR COMPULSORY SOCIAL INSURANCE

The advocate of compulsory social insurance is met at the outset by the inherent human disinclination for compulsion of any kind. Resentment at the intrusion of the state upon what has long been considered private ground is an every day incident. The game warden who confiscates the contents of the hunter's bag—perhaps on the hunter's own land; the fire warden who drops into a shop and orders the sawdust removed from the floor; the food inspector who prosecutes, in the name of the state, the vendor of ancient eggs or short weight loaves; the health officer who calls at the door and demands the immediate installation of $200 worth of sanitary plumbing when the family bank account is at the vanishing point; the attendance officer who hales the parents of a persistent truant before the juvenile court —all these, and many others, are frequently regarded by the recipients of their attentions as being engaged in unwarranted meddling with the personal liberties of human beings.

To the average, self-centered human mind, the effect of a law or an ordinance on himself is the first and only consideration. Until he has acquired the social consciousness, he resists all sorts of what he considers encroachments on his personal liberties.

The compulsory insurance advocate has to meet this idea from three sources—the beneficiary, if he is forced to contribute from his wages for insurance, and the employer and taxpayer, if any portion of the incidence of insurance is thrown upon them. The wage earner will say that he is unwilling to have any part of his wages withheld, that he needs it and is entitled to dispose of every penny of it as he

sees fit, that he will make his own insurance arrangements. The taxpayer will argue that he should not be taxed to benefit improvidence, idleness and inefficiency. The employer feels that his profits should not be forcibly reduced by contributions that, he avers, will only encourage thriftlessness.

Then comes the alarmist and cries "Socialism". This frightful bugaboo is all the more difficult to slay because of the ignorance of the average American concerning the underlying principles of socialism, and his wilful blindness to the American modification and application of socialistic ideas. The specter of a paternal government reaching out for individual liberties is a stock argument of conservatives, individualists and social pirates against any change that will alter the equilibrium of the world of dollars, and loosen their own grasp of power.

In harmony with all these is the constitutional objector, who doubts the power of the central government to inaugurate such legislation, and has not the interest or the courage to push it to adoption, state by state.

It is urged that any effort to do for working people what they ought to do for themselves will result in a loss of self respect on their part, will encourage improvidence, and warp the moral nature of the masses by constant temptation to idleness and deceit.

All existing systems of compulsory state insurance have been subject to criticism because of the weaknesses of public administration. Opponents of the introduction of such a system in the United States point to the evidences of inefficiency in the public service, and the maladministration of public funds so deplorably common.

With such a formidable array of indictments against it, the compulsory state insurance idea has triumphed in the progressive countries of Europe, and has gained a foothold in the United States.

The argument in favor of the adoption of some system of compulsory insurance for people who work for wages must rest on a knowledge of the conditions under which such people live. If it can be established that a considerable

part of our people work for wages that cannot be made to provide them with decency, comfort and opportunity, much less enable them to be prepared for emergencies and misfortunes, then it would be obvious that so much of our industrial system is parasitic, and requires revision. An excursion into the cost of living problem made for the Russell Sage Foundation has established that the least income upon which a family with three children under fourteen years of age can have decency and sufficient comfort to maintain bodily and mental health is $900 a year in New York City, and $600 to $700 in smaller places. When the thousands who do not have this minimum standard income are considered, a noticeable portion of our industrial system must be branded as parasitic. Suppose the union scale for carpenters in a given city to be 35 cents an hour, and the union day to be eight hours. A daily wage of $2.80, providing that work was to be had every day except Sundays and six legal holidays annually, would mean an income of $859.50, upon which, it is admitted, the family of five could maintain a mimimum American standard of living in all but the larger cities. It is improbable that carpenters, generally, have so high a scale of pay or are able to work 307 days a year. This trade, being one that affords fairly constant work and at least 25 cents an hour wage scale in average cities, represents an index of the upper edge of the scale of compensation of working people. Vast numbers of families, even where women and children are also wage earners, do not attain the minimum of $600 or $700 in the smaller towns. Recent government investigations into wages and living conditions in Lawrence, Massachusetts reveal a wage scale that does not admit of decency, comfort or opportunity. So deplorable, indeed, were the revelations that many of the details are believed to have been suppressed. The industries investigated were clearly parasitic. Some of them paid handsome dividends—putting into the pockets of non-participants in the activities of the business the profit that should have been partially distributed among the workers as wages honestly earned. It would be a most obtuse moral sense,

socially speaking, that would recognize the justice of a declaration of dividends in a parasitic industry.

It is not overstating conditions to say that hundreds of thousands of wage earners in the United States do not receive sufficient compensation to support life in the most meager fashion, without the aid of friends or charity, or worse—loss of what is called virtue. It is estimated that a working girl in a large city should have a wage of at least $8 a week in order to keep herself well and respectable. Great numbers of girls whose pay for long and wearisome hours of toil is far below $8 a week are to be found in any city.

The constantly rising cost of living with no corresponding rise in wages and small salaries has placed thousands of American working people on the border line of poverty. On this plane of living there is no margin for insurance. Nor is there much margin for the much better paid wage earner. The cost of insurance in private companies, fraternal orders and labor unions is so high that life, accident and annuity insurance are with difficulty carried by one member of the average family of five with an income of $1,200. A family of the same size with an income of $600, obviously, could carry only a little industrial life insurance, at most. Neither do these incomes admit of any other provision against the costly vicissitudes of life.

How then, are these emergencies to be met? Is the present system of resting the burden on the shoulders least able to bear it, and then, when they sink under the load, transferring it to public and private charity, to be continued indefinitely? Or, is the sense of social justice strong enough to demand a living wage, and suitable provision for accident, sickness, unemployment, old age and dependency? If so, what is the ideal method of attaining the desired end? European countries have partially answered these questions by the adoption of systems of compulsory state insurance.

The unwillingness of nearly all human beings to submit to compulsion need scarcely be reckoned as a serious objection to any measure for social betterment, since compul-

sion may not be escaped by any one—not even Crusoe on his island. The employer and employee who resent compulsory insurance, the taxpayer who opposes the payment of public funds for social insurance purposes, must, in turn, submit to compulsory taxes to support public charities. Between compelling a man to give up some of his earnings to support public charities, and requiring him to lay by in a safe place, part of his earnings to meet the almost certain financial emergencies of his own life, there is little comfort for the advocate of personal liberty.

The employer's objection to compulsion in the enforced contributions to state insurance for working people is no more valid than that of the employee. Industry will have to bear the burden of wear and tear on all the material and machines required to maintain it—including human machines. When it does not do that it becomes parasitic.

The taxpayer's objection to compulsory insurance to which the state contributes is short sighted, as an equivalent amount would be concealed in the tax levy under the increased taxes for public charities and corrections. It ought not to require statistics to convince the average intelligence that inability to meet the normal emergencies of life breeds paupers and criminals, and that these must be cared for by the taxpayer.

Nor are people of even average intelligence longer to be frightened by the cry of "Socialism" whenever special privilege is threatened by any proposition for collective effort. Socialism in the United States has resolved itself into municipal, state, and national enterprises for the furtherance of the general welfare. Whenever this can be attained more effectively and economically by collective effort than by private enterprise, the name given to the particular manifestation of civic enterprise is immaterial.

The general government has seldom attempted "general welfare" legislation—but it is well within the possibilities. The constitutional objector is faint hearted. The constitution may not be made for man—but any day that man dis-

covers that he prefers to have it so constructed, he can have things started in that direction. Meantime, constitutional compulsory insurance has been established in Washington—and if in Washington, why not in other states?

It is possible that the knowledge that adequate sick and unemployment benefits, workmen's compensation and old age pensions have been provided would deter some constitutionally inert people from being industrious, economical and thrifty. In most countries where compulsory insurance is in effect the benefits are purposely meager in order that every incentive to saving and providence shall remain. In Great Britain the maximum old age pension is five shillings ($1.25) a week. Obviously the candidate for a pension must have other sources of income if he avoids going on the poor rates.

Most national systems of insurance are contributory on the part of both employers and employees—sometimes also, the state subsidizing in addition. In such systems malingering is discouraged by the personal interest that all workmen have in reducing payments.

Nor is it reasonable to ask working people to provide for the emergencies of life out of the wages that a majority of them receive. With higher wages, the state could very appropriately and justly say: "You must save against emergencies. Government will care for your payments and guarantee the specified benefits." Such a system is compulsory only for the improvident, in reality, since the provident are under no compulsion when required by law to do what they would have done in any event. The experience of Germany is evidence enough that the social insurance system there in operation does not pauperize the workers or induce loss of self respect. The system is so adjusted as to throw the incidence of burden where it belongs—on the individual, on the industry and on the state. The workman receiving benefit feels that he receives simply deferred installments of his just dues for services rendered.

Misuse of public funds must be admitted as an objection to any plan involving more public officials to handle more

money; but before regarding this as an important objection, it must be made clear that private insurance enterprises would be free from graft, and mismanagement easy to adjust. Public officials are more and more required to be honest. There is abundant reason to believe that state insurance funds could be economically and safely managed. The state cannot go out of business because a few grafters exist.

With a skilfully drawn law, there is no reason why any state in the union should not have an adequate social insurance system.

The trend towards social justice is broadening. The producer of wealth will one day have his fair share of the fruits of his labor.

EDNA D. BULLOCK.

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SELECTED ARTICLES ON COMPULSORY INSURANCE

INTRODUCTION

The student of human problems finds this subject of the protection of the working classes from the misfortunes of life the most human of all problems. So large a proportion of the people belong to the working classes that the promotion of their well being is one of the most imperative social needs. A country's greatest source of wealth lies in its workers. Upon the maintenance of the working people in decency, health, comfort and self respect hangs the efficiency and prosperity of a nation.

As the social consciousness gathers coherence, nations begin to ask themselves whether the wage earners are being accorded their rightful share of the material riches resulting from their labors. The social demand is for healthful and comfortable homes, nourishing food, suitable clothing, adequate educational and recreational opportunities, steady employment, safe and healthful places in which to work, and wages that permit provision for the emergencies of life. Are these requirements being met?

Naturally, the student looks to the Old World for the earliest efforts to arrive at social justice to the silent masses of the people. Overcrowding of population and consequent disestablishment of economic equilibrium forced recognition of the condition of the working people. To allay the discontent growing out of these conditions as indexed by the

rising tide of socialism, Germany, spurred on by Bismarck, adopted a sweeping scheme of social insurance. This has been extended until the Code of July 19, 1911 applies to the greater part of the working population of the Empire. Ample testimony to the general satisfaction over the effects of the system is available. Criticisms are not wanting, but they refer to details of administration rather than to the essential idea. After more than twenty-five years of trial the German system is almost universally conceded by impartial students to have been the leading factor in the establishment of the admitted industrial supremacy of Germany. Briefly, this system includes compulsory insurance against industrial accident, sickness, invalidity, old age and death of a wage earner with dependents.

When the demands upon the poor rates become so heavy as to indicate a reducing of a shocking proportion of the working people to pauperism, taxpayers can generally be counted on to make some investigations into causes. Great Britain has been slowly and painfully working out some form of amelioration for the deplorable conditions existing among her working people. The scheme has recently (May, 1912) been widened to include invalidity and unemployment insurance. Earlier legislation had provided for workmen's compensation, sickness insurance and old age pensions.

Many European countries have adopted some of the features of the German system. An earnest effort to improve conditions is manifest.

The laggard in this type of reform is the United States. This is due, principally, to the handicap to all social legislation embedded in the Constitution. Such legislation, except for industries engaged in interstate commerce, must be obtained locally by states. A number of states have modified the common law, which has heretofore determined employers' liability, and one state (Washington) has adopted compulsory state insurance for industrial accidents.

Provision for some of the contingencies of life is made by some corporations in the United States for their per-

manent employees—some of the systems being non-contributory, others being contributory and voluntary.

The great majority of American workmen must shift for themselves in the matter of insurance. Some more equitable method must be devised. It is for the student to consider the systems in operation, and discover, if may be, what system is best adapted to conditions in the United States.

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Logic of Social Insurance. Charles Richmond Henderson.

Hitherto the title "industrial insurance" in this country has been monopolized by private companies, and meant chiefly provision for funeral expenses at high cost. It is time to extend the significance of the words, or to adopt some such description as "social insurance" to cover the methods of guaranteeing income to wage earners and their families in case of sickness, accident, invalidism, feebleness of old age, death of the breadwinner and unemployment.

The people are beginning to take an interest in the subject. A few years ago all suggestions were hushed by the sneering epithets, "socialism," "sentimentalism," "paternalism," and a hint that one was corrupted by German "absolutism." Of course, there never was any real weight in such empty and provincial phrases, and they merely indicated the fact that the American mind was empty of knowledge of a world movement. They revealed an indifference to human suffering which did no credit to our civilization, and a contempt for social science, which was not honorable to our universities, editors and lawyers. Very hopeful are the signs of interest. Magazine articles on industrial accidents sell the numbers; legislative committees are busy framing bills; the Russell Sage Foundation and the Carnegie Institution are collecting information; trade unions have retained legal talent to help them formulate laws which will have a living chance with conservative courts bound under constitutions written by men of minds alien to our age and for radically different economic conditions and ethical ideals. European nations have solved the actuarial and economic problems,

while America, proud of its inventiveness and initiative, lags in the rear and rails at the "effete monarchies" of the Old World, and foretells all sorts of evils like those senile persons who praise the times that are dead.

Perhaps the newspapers, even though hostile, have helped to awaken attention by grudging references to the European laws, while a corps of young writers of talent and persons with experience in charity work have stirred the sluggish conscience of the nation by their stories of misery caused by our human neglect, and have reminded men of the disclosures of the German workingmen's insurance plans at the St. Louis Exposition.

One cause of the awakening is a discovery of the enormous cost of litigation which has become a burden upon the resources of the nation and a disgrace to the legal profession, as well as a source of corruption. A recent article in the Chicago "Tribune" on "The Cost of Legal Circumlocution," furnishes an illustration:

> All the civil litigation of England and Wales, population about thirty-two millions, is taken care of by thirty-four judges in the supreme court of judicature and fifty-eight county judges, or ninety-two judges in all.
>
> The population of Illinois was, by the census of 1900, approximately 4,800,000. Its courts employ seventy-eight circuit judges and 101 county judges exclusive of Cook County. Cook County has twenty-five circuit and superior court judges, a county judge, a probate judge, and a municipal court of very general jurisdiction employing twenty-eight judges. There is a supreme court of seven judges. In all these judges number 216. Besides, we have justices of the peace and the federal judges.
>
> The "Tribune" does not offer this rough comparison as conclusive. But it suggests that after making all due allowances the discrepancy revealed is shocking. Omitting the work of our county judges and taking into account only that of our circuit, superior and supreme courts, we have an establishment of eighty-five judges taking care of the civil and criminal cases of a population of less than five millions, while in England and Wales ninety-two judges dispose of all the litigation of more than six times our population. The vast property and business conditions of England must also be thrown into the scale against us.
>
> Unless our judges and our lawyers are incompetent or worse there is something wrong in our administration of the courts. The first hypothesis is, of course, not to be considered. The alternative should be faced by the profession and by the public and reform achieved. The waste and burden of our over-technical procedure must cease. It has endured too long.

Studies of the causes of wasteful expenditures in courts reveal the slow and serpentine course of personal damage

suits which fill the dockets and blockade the roads of justice. Important commercial business must wait while, during long years some mutilated workman, led by an ambulance-chasing lawyer, who is fed on hopes of immense contingent fees, fights his employer or a soulless casualty insurance company through court after court, in the end to accept the pittance which the attorneys are willing to leave him from the award.

The ideal of justice is a prompt, certain and unbought indemnity; the actual fact is that under our employers' liability laws the indemnity for injury in occupation is subject to all the uncertainties of gambling, it comes, if ever, after long and painful waiting, and it is robbed of its value by the necessary costs of collection through the courts. There is no greater source of hatred for law and judicial process than this travesty and mockery of justice. The abuses of injunctions in case of strikes and boycotts are comparatively rare and easily remedied; the wrongs legally perpetrated in damage suits are a matter of universal and daily experience. As soon as a workman is injured and claims his indemnity in courts his employer may put him on a black list and persecute him to death; and the very nature of the law produces this artificial and monstrous antagonism. Lawlessness and class hatred are the legitimate progeny of a procedure which has been rejected by every other great and civilized people.

Curious and discouraging is the consequence of living for generations under such an unfit law; it has shaped our modes of reasoning until we cannot think rationally on the actual demands of the situation. We follow precedents of the past for a guide in a new and different economic world, and every step takes us further from our goal. Not only lawyers and judges, but aggressive business men and shrewd trade unionists think in terms set by antiquated regulations. Trade unions are spending their energy on making the employers' liability law still more drastic and until recently, they have not faced the fact that progress in this direction is impossible. What they need is insurance of income in all cases of accident, whether from negligence of employer or from risk of the trade. What they want and ask is the chance

to punish their employers in case of negligence only, and they are seeking to interpret "negligence" in a sense which it never had before, which is unjust now, and which will provoke still more conflict in the courts.

Meantime, more by a reflex movement of discomfort than from scientific guidance, employers and employees are performing all sorts of experiments with insurance. Blind and faulty as those gropings are, they must be made the starting point for a scientific and complete system in the future, as acorns produce oaks.

The principle of association for mutual protection in the emergencies of existence manifest itself in the clubs and local benefit societies which are formed everywhere in the country. The negroes of the South have been led by the instinct of aggregation and the example of their white neighbors to pool their dues against the time of the funeral. Sometimes the undertaker is also secretary-treasurer of the pool, with results very similar to those known in the case of burial insurance benefits.

The statistics of funds collected by these friendly groups on the basis of common occupation, race or religious ties, or mere neighborhood, will never be gathered; but even partial surveys show vast sums and reveal heroic sacrifice and deeds of friendly service. The German imperial legislators have been wise enough to retain these features of local and personal moral bonds in their sickness insurance laws. In connection with illness something more is needed than mere money benefits; a human touch of sympathy must be added by fraternal visitors; and intimate acquaintance diminishes the temptation to malingering almost as thoroughly as medical examinations.

The fraternal societies, of national scope and with local lodges, all federated in the common interest, have, with slow and irregular march, educated millions of people in the elementary principles of social insurance. It is true these societies include many representatives of the commercial and professional classes, but they are also popular with many groups of workingmen. They have demonstrated the possi-

bilities of economy of administration where the ties of personal association are strong through neighborly feeling, mystic symbols and religious faith. The Mutualists of France have shown that not only sickness insurance and death benefits but also old age pensions can be provided by this method—with proper governmental supervision and aid.

Some of the trade unions have added insurance features of various kinds, and when members have good wages these have succeeded fairly well with sickness and burial benefit. The trade unions alone have achieved even a moderate success with unemployment benefits. They have failed to insure the workmen who are on low and uncertain income. When a system of compulsory accident insurance has been organized the trade unions will be free to provide sickness and invalid insurance and additional income beyond the minimum which can be secured by law; but they can never furnish adequate accident insurance, and society has no right to require them to carry a risk which is part of the real cost of production and should be borne wholly as part of the expenditures of production.

One principle has been taught to millions of persons by all these schemes of insurance—the principle of insurance as opposed to savings. The obsolescent doctrines of individualism and laissezfaire idolized the savings bank and the multitudes actually believed that by deposits of an average of one hundred dollars a year at 3 per cent they could all become capitalist managers and gain a share in the profit funds. This illusion was cultivated for a long time by advocates of many ill-defined "profit-sharing" schemes. Of course, there was a large measure of truth in both these ideas, and much will still be made of them in the future. But hope of "rising" into the diminishing capitalist-manager class has been definitely abandoned by workingmen and people on salaries. Attention is turned to the value of association and insurance. The minute a man joins an insurance society he gains a claim on a fund which he could not "save" in twenty years. Furthermore, men are discovering that co-operation

with others opens a finer way of life than depositing premiums to an individual account.

From the point of view of social insurance the tendency to concentrate manufactures, commerce and transportation in permanent corporations is an advantage; partly because the responsible managers of large enterprises must be far-seeing men, and partly because solid corporations can safely venture on schemes which require a long view and the accumulation of funds. It is precisely with the railway companies and the other huge corporations that we find the most rapid development of workingmen's benefit and pension plans. It seems probable that these bodies will entrench themselves in their financial position by these means, because they will draw away from the less important managers their best workmen and hold them in their service with the prospect of serene and independent old age. These plans are developing so rapidly that statistics are soon obsolete, and there is scarcely a good manufacturing or transportation company which is not employing legal and actuarial talent to recommend methods and legislation. To this course they are driven all the more by the tendency of legislatures to lay upon corporations, creations of the state, burdens of liability which they do not think of imposing on private employers. The consequence is that the directors of large enterprises are looking about for a method which will at once conciliate employees and avoid the waste of litigation in damage suits. As progress comes by common imitation of examples set by princes and men in high place, we may reasonably look for a movement of smaller employers to secure the advantages of assembled capital through national insurance associations which will either furnish workmen's collective policies or arrange for better terms with casualty companies.

No voluntary system of social insurance can be economically administered, save upon a foundation of compulsory insurance. The reason is obvious and all the schemes mentioned illustrate the law. So long as accident insurance continues to be optional, many employers and employees will

neglect organization and they will hamper or even defeat those who are willing to organize.

Part of the difficulty in the United States is created by the existing law. Employers feel that they cannot afford to support accident insurance at their own cost so long as they are liable to pay heavy damages to injured workmen or fight them in the courts; and the law keeps them always in fighting mood. So long as part of the employers refuse to carry these extra premiums their competitors are economically compelled to follow their example.

A compulsory insurance law would at one stroke of the pen remove the burden created by the present liability for negligence and the appalling wastes in casualty company fees and litigation; and at the same time the amount now wasted or misdirected would be available for an accident and sickness insurance fund of vast magnitude. At present an enormous sum is spent for soliciting business and settling claims by agents of casualty companies. This is all waste, because under compulsory insurance employers would seek the means of meeting their responsibilities and their protection could be "sold over the counter." The managers of industries could then choose between the bids of casualty companies for workmen's collective policies, or organize their own mutual insurance associations. The premiums would fall to a legitimate rate and stockholders in casualty companies would no longer draw dividends from extortion, strife and blood money.

That which is economically necessary and otherwise socially imperative will ultimately be found constitutional. In all our history there has been no exception to this rule; although at every step into a brighter world judges have solemnly denied the possibility and great lawyers have turned back to their case books with a smile of pity for the philanthropists or bitter sarcasm for the agitators who ruffled the calm sea of their complacent confidence in "natural law," Coke, Blackstone and Company.

Within the past year the federal government itself has broken up the "crust of custom" by enacting a law which

provides compensation for certain classes of its own employees injured in the service; and the pitifully inadequate compensation will be increased and extended. It is a splendid and persuasive example of justice which the general government has set before the several states and all employers of labor. The document is a light tower showing the future highway for all those who control the services of men who must live day by day on daily income.

The assertion, based on nothing, that compulsory social insurance is "not American" is contrary to the most obvious facts of our history. We are a law-abiding people and love to make laws, and every statute and court ruling is compulsory. We are so used to compulsion in the common interest that we forget it, as we are unconscious of the atmosphere. It is the vital element in which we enjoy freedom, security, order and opportunity. By compulsory laws we build and maintain roads and bridges, against the mean protests of the minority who would be content to stick in the mud. By compulsory laws we secure parks and pleasure grounds and secure the revenue by diverting money from the liquor traffic. Within the memory of the writer in the Middle West a large if not respectable minority railed at the public school laws as robbery, and insisted that any man had the right to bring up his offspring in brutish ignorance if he wished to do so.

Compulsory taxation to relieve the poor, the insane, the idiotic, the demented, the indigent old people is in the poor law of Great Britain, and the nations descended from it; while republican France has recently adopted the principle and Italy is moving in the same direction. This means that the conscience of a modern nation will not permit a citizen, however inefficient or unworthy, to perish without an offer of at least a minimum supply of the necessities of life.

We shall be logical. We shall discover that it is morally infamous to offer temporary asylum and a secure old age to wornout criminals, prostitutes, ignorant ne'er-do-wells, and degenerates, and deny shelter to honest workmen, except on terms revolting and debasing.

The popular campaign against tuberculosis has revealed to the common mind the meaning of the "police power" of the state, and the significance of public health administration. No man can be sick unto himself, especially in a crowded factory or tenement house. Those who are too ignorant, poor or negligent to keep well are taken in hands by the commissioner of health. Those who suffer from infectious diseases are isolated in special hospitals or warning bulletins are posted at the front door. It is notorious that people on low incomes go to physicians and dispensaries only in the last resort, from fear of expenses their income cannot meet. Society is discovering that neglected disease or wounds involve public loss and danger. How can we secure prompt and economic application to the medical profession without pauper relief? The answer comes from Germany: by compulsory and universal sickness insurance. There is no other answer.

This is part of our reply to those who declaim against workingmen's insurance as "class legislation." It is not class legislation; it is "social insurance," because all members of society reap its advantages, just as rich men who send their children to private schools derive benefits from the public schools which educate the poorer neighbor. If an insured workman is injured he places himself instantly under expert medical advice, and is more surely and speedily restored to industrial efficiency, and so becomes again a producer of social wealth.

Some of the individualists oppose compulsory insurance because it will "pauperize" wage earners. But neglected sickness is the broad and easy descent to pauperism, and it is by this route most paupers travel to their doom. Compulsory insurance is the best public health measure yet organized.

Has anyone investigated the cost and moral degradation caused by the non-payment of medical service? It is notorious that physicians annually contribute millions of dollars to patients who will not or cannot pay; but this is a compulsory tax on physicians, not always a cheerful philanthropy. Physicians cannot refuse the call of a wounded or sick citi-

zen and cannot require advanced payments, as landlords and grocers can. Public opinion and the ethics of their profession require them to rise in the night and go through storms to help those who suffer, and this without hope of payment.

This is unscientific and barbarous. Most of it is wholly unnecessary. Physicians should have a social guarantee of payment, and honest men should not be obliged to pay for the dead beats. Under a compulsory insurance law a fund for paying physicians and supporting hospitals would be provided in advance and the cost would be equitably distributed. Several methods of providing the funds of social insurance are now under discussion and all of them have a chance of being put to the test of experiment, the final arbiter. We have already paid our compliments to the existing liability law based on the principle of tort, and we have found it condemned by every modern nation except our own, and even here admitted to be full of cruelty and waste.

Massachusetts has passed a law (May, 1908) permitting employers to escape from the existing liability on condition that they adequately insure their employees—the principle embodied in the bill offered for educational purposes in 1907 by the Illinois Industrial Insurance Commission and opposed by the trade unions. Up to the time of writing this article, not a single employer in Massachusetts had thought it worth while to avail himself of this permissive law, and there is no reason in the nature of the case for hoping for any general acceptance of the idea.

The delegates to the International Congress on Social Insurance in 1908 were unanimously agreed that a minimum insurance can never in any country be secured to workmen without legal compulsion. This conclusion is the result of more than a century of trial of all forms of voluntary insurance. Two schemes of compulsory law are now debated in this country, the British compensation law, and compulsory insurance. The compensation method is urged for the United States because it is English. But the British act is itself a pioneer experiment; and, heretofore, as in the case of

the poor laws and employers' liability laws, we have imitated England after that nation had abandoned an untenable position. The compensation law has difficulties which do not inhere in insurance plants. Thus, if all employers are made liable to pay compensation in any case of injury, the payment would be ruinous to farmers and small manufacturers. It is reported that in England this is so true that the compensation act is a dead letter among the petty manufacturers and farmers.

But if the employees are required to pay a periodical premium of a small percentage of the wage rate, this would be made a part of the ordinary expense of business, and could be met by any householder, or any employer of workmen in shop or field. Our people are already familiar with the insurance principle, they have had the patient and genial instruction of life insurance agents, the most skilful and effective teachers of a great social principle whose services are not always treated with the reverence and gratitude they deserve in view of the results. With the principle of compensation we have no acquaintance unless the obnoxious law of liability for negligence may be so regarded, and that is now so associated with fraud, injustice and waste that it repels.

Compensation laws are an indirect method of compelling employees to insure, when the direct way would be more simple, open, fair and economical. Compensation laws leave the thriftless and irresponsible employers uninsured to compete with employers who do insure, to the disadvantage of the more competent, at the same time leaving their own employees without protection. Under a straight and direct insurance law all employers are on a level and all employees are secure of protection.

Furthermore, under a compulsory compensation law, if it stand alone, the state leaves the employers, especially the small employers, at the mercy of casualty companies without an alternative. It does not seem to the writer fair or safe to compel many thousands of employers to carry a liability to pay heavy indemnities in case of accident or other injury

without ample and well organized methods of distributing and providing for the risk by some insurance method. The state itself need not go into the insurance business. It should leave a perfectly free field for casualty companies. But the state should provide for the organization of mutual insurance associations of employers and for a certain fund of deposit which would relieve the individual employer from enormous liabilities, protect the employees beyond a doubt, and provide wholesome competition with private insurance companies conducting business for profit. Advocates of the British compensation law are under moral obligations to remember its limitations. It bears the historic marks of its recent birth from the principle of tort on which the employers' liability law is based; it provides indemnity for injuries from accident and disease only so far as these arise directly out of the employment. But many injuries to health and soundness of body arise out of conditions quite apart from the occupation and place of employment, and for these also workmen need such protection as they can find only under a compulsory insurance system.

The fear is often expressed that if workmen are insured against accidents malingering will be introduced; men will claim benefits on slight pretexts in order to enjoy a vacation. The apparent increase of slight injuries in Germany is cited in proof. The argument has little weight. Men instinctively avoid pain and mutilation; benefits never equal wages; medical certificates can reduce the evil; and, real as the danger is, it is not to be weighed against the well-known miseries of the present situation. Besides, malingering is already a familiar fact in this country; the trade unions and fraternal societies have plans for overcoming it. Under our employers' liability laws the workmen very frequently threaten damage suits without legal ground in order to extort payments for injuries not due to employers' negligence. If a careful investigation were made and statistics secured it would show that Germany has no monopoly of malingering. The uncertainty of risk under our law is not merely the occasion of enormous costs for casualty

insurance premiums, but, since the limit of practicable insurance is $5,000, and damages of $20,000 to $30,000 are not unknown, the entire risk is not covered by insurance policies. This compels certain employers to pay higher interest for capital required in their business to cover the extra risk, and this is in addition to the loss occasioned by attendance on lawsuits and payments to workmen outside the award.

Doctor Zacher, in a review of the discussions of the International Workingmen's Congress at Rome, in October, 1908, has selected the chief points on which after years of heated discussion all parties seemed to be united. The delegates to this congress from England and France have stood for the principle of freedom and for voluntary organizations. Especially in France the "Mutualists" have long contested the tendency to break up their fraternal organizations and give to the state a monopoly in this sphere. Naturally, the casualty companies have been unwilling to be driven out of the field of accident and health insurance by the compulsory laws of the state. At Rome all these parties united upon the principle that compulsory insurance is absolutely necessary to secure a *minimum* income for working men in case of accident, sickness and invalidism.

Luzzatti, formerly Italian Minister of Finance, confessed himself a convert to the principle of compulsion because he had found that the most earnest efforts of the Italians to secure the great multitude of workers from pauperism on the voluntary principle had failed. Even with the help of a state subsidy the voluntary associations had been able to insure only 200,000 persons, and most of those connected with the state employments, out of 12,000,000 persons who under a compulsory law would have been insured. Therefore, he was of the conviction that without legislative compulsion the purpose of insurance cannot be reached. As compulsory school education was a necessity for the intellectual education of the masses, so compulsory insurance was necessary for their economic education. The fear that compulsory insurance would hinder the development of the free activities of associations had been allayed by the aston-

ishing successes of Germany. And in France, Mabilleau, the leader of the French Mutualists, had reached the conclusion that without legal compulsion the societies of mutual benefit could not be successful in the field of sickness and invalid insurance. Luzzatti made a suggestion which seemed to be accepted by all, that compulsory insurance offers only the indispensable minimum income; while in order to advance to the maximum voluntary insurance must be brought to bear. Between these two poles the free initiative of the individual and the autonomy of voluntary organizations had a wide field for action.

The congress at Rome discussed also the important matter of education and training of expert officers for insurance organizations. This is a matter which must receive attention in the universities of the United States. We have naturally given more attention to life and fire insurance because thought on these matters was better systematized and because material for study was near at hand. But already our great corporations have begun to introduce the voluntary associations of insurance and legislatures are asking for information, and very soon there will be a considerable demand for persons thoroughly trained in the scientific aspects of workingmen's insurance in all its branches. In this connection too great emphasis cannot be laid upon the importance of teaching the medical students their duties in relation to the different schemes of insurance. The medical profession will be called upon more and more to administer the various schemes of accident and invalid insurance, and there are many technical questions of great interest with which they ought to be familiar in addition to their purely professional duties. Courses of instruction in social insurance should, therefore, speedily be added to the curriculum of our medical students. The field of industrial diseases alone demands much larger attention than it has hitherto received from the medical profession in this country, and only the physicians have the knowledge which will enable them to act as inspectors for insurance agencies. The staff of factory inspectors should include men and women of suitable medical training.

The international congress has given considerable discussion to the insurance of mothers, and it is apparent that in our industrial cities provision must be made for those women who have the double care of infant life and of earning means to support the family. It is not too much to say that degeneration in large groups of modern city dwellers is one of the serious problems of our time. Unemployment insurance will not be touched upon here. Hitherto the United States have been very scantily represented in this international movement, but measures were taken at the last congress for organizing an American committee.

Compulsory compensation or insurance is an inevitable and certain result of measures already taken by leading employers. The greatest managers have already entered seriously upon a policy of insurance in some form, though ever so inadequate and crude; and every manager who assumes financial burdens in this direction finds his pecuniary interest threatened by those less intelligent, progressive and humane. What must be the effect? The only means of equalizing the burden is by legislation compelling all employers to bear the same load, and preventing the meanest and most narrow-minded from deriving an advantage over the best employees. Therefore, every voluntary scheme which is introduced brings one more powerful ally to the cause of compulsory insurance.

Annals of the American Academy. 38: 23-30. July, 1911.

Some Features of Obligatory Industrial Insurance.

James Harrington Boyd.

The legislatures of fourteen states have passed statutes abolishing the fellow-servant rule.[1] Seven or more of the states have modified one or more of the common law defenses, either by statute or by decision of their courts,

[1]Arkansas, Colorado, Florida, Georgia (1885), Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, North Carolina, Oklahoma, South Dakota and Missouri.

along the following lines:[2] (1) Adopting the doctrine of comparative negligence, which has always been the rule and common law in certain states, like Georgia and in admiralty causes in the federal courts; (2) changing the burden of proof of contributory negligence from the plaintiff to the defendant (as has always been the rule in the federal court and some states), as for example, in Ohio and Oregon; (3) taking away the defense of assumption of risk when the risk assumed was caused by the fault or negligence of the employer.

The tendency of the development of the statutory law during the last few years, relative to the recovery of compensation for injuries to workingmen which arise out of their employment, is to wipe out the common law defenses, leaving the action based solely upon the fault of the employer.

The chief sources of the friction between employer and employe, the rapid increase in the demands for charitable relief and care for delinquent children, and the corresponding demand for compensation for all personal injuries which workingmen receive in the due course of their employment, continue to exist largely because compensation for injuries can only be obtained when the employe can prove *fault* on the part of his employer.

Fault or negligence of the employer can be proven in much less than 20 per cent. of the cases, and, what is most startling, no matter how careful the employe and the employer are, or how high the efficiency of the state may rise in the prevention of accidents, the cause of 50 to 55 per cent. of all accidents to employes is solely due to the natural hazard or dangers of the business—the combined negligence of the employe and the employer. On the other hand, the cause of 16.8 per cent. of all accidents are traceable to the negligence of the employers, and the cause of 28.9 per cent of all accidents is attributable to the negligence of the employes. Under the practical operations of the common law remedy, based

[2]California, Mississippi, Ohio, Oregon, South Carolina, Utah, Virginia.

upon fault, it is impossible to prove the employers negligent in anything like 16.8 per cent. of the cases of injuries to employes. For that reason, the old theory of making fault the basis for an action to compensation for injured workmen has been abandoned.

The only available statistics in the United States showing how much compensation the dependents of workmen killed or workmen injured receive under the present laws in the United States are in the reports of the investigations made by the Russell Sage Foundation in Allegheny County, Pa., 1906 and 1907; the investigations of the Employers' Liability Commission of New York State, and those of the Liability Commission of Illinois, during the years 1909-1910, and the investigations, now about complete, which have been made by the experts of the Employers' Liability Commission of Ohio in Cuyahoga County (Cleveland), during the months of November and December, 1910, and January and February, 1911, covering fatal and non-fatal accidents for the period of 1905-1910. On account of the great importance of the results of these investigations in framing laws providing for industrial insurance to workmen, a *résumé* of their results is given.

New York Statistics

During the years 1907-1908, ten insurance companies, which keep employers' liability records, doing business in the state of New York, received in premiums from employers, $23,524,000; they paid to injured employes, $8,560,000; waste, $14,964,000.

It should further be added that ten liability insurance companies settled 414,000 cases in the three years prior to 1910 in New York by making payments in any sum at the rate of one payment in eight cases or in 12½ per cent of the cases.—(N. Y. Report p. 25.)

Nothing could more strikingly set forth the waste of the present system than the fact that only 36.34 per cent. of what employers pay in premiums for liability insurance is paid in settlement of claims and suits. Thus, for every $100 paid out

by employers for protection against liability to their injured workmen, less than $37 is paid to those workmen; $63 goes to pay the salaries of attorneys and claim agents, whose business it is to defeat the claims of the injured, to the cost of soliciting business, to the cost of administration, to court costs and to profit. Out of this 36.34 per cent. the injured employe must pay his attorney. The same report shows that the attorneys get 36.3 per cent. of what is paid to the injured employes.

This investigation covers forty-six cases, where the recovery was about $1500 each. In small recoveries the attorney fees take a larger proportion. This report shows that somewhere between 20 and 25 per cent. of the money paid by the employing class, actually passes to the injured workingmen for their dependent families in death cases.

The proportions of the loss borne by employers in injury cases does not differ greatly from that in death cases. Thus, out of 388 injury cases of the married men alone, 56 per cent. receive no compensation; of single men contributing to the support of others, 69 per cent. receive no compensation; single men, without dependents, 80 per cent. receive no compensation.

Russell Sage Foundation Investigations in Allegheny County, Pennsylvania

The investigations recently conducted in Allegheny County, Pa., under the direction of the Pittsburgh *Survey*, showed that out of 355 cases of men killed in industrial accidents, all of whom were contributing to the support of others, and two-thirds of whom were married, 89 of the families left received not a dollar of compensation from the employer, 113 families received not more than $100, 61 families received something more than this $100, but not more than $500. In other words, 57 per cent. of these families were left by their employers to bear the entire burden of the income loss, and, granting that all unknown amounts would be decided for the plaintiff, only 27 per cent. received in compensation for the

death of a regular income provider more than $500, a sum which would approximate one year's income of the lowest paid of the workmen killed.

Wisconsin Statistics

The Wisconsin Bureau of Labor and Industrial Statistics reports that in 306 non-fatal cases in which reports were received by mail from workmen while at work the compensation was as follows:

	Cases.	Per Cent.
Received nothing from employers	72	23.5
Received amount of doctor's bills only	99	32.4
Received amount of part of doctor's bills	15	4.9
Received something in addition to doctor's bills	91	29.7
Received something, but not doctor's bills	29	9.5
Total	306	100.00

In two-thirds of the cases, part or all of the doctor's bills were paid; in less than a third was anything more paid, and in about one-fourth of the cases nothing whatever was paid.

In 131 non-fatal cases in Wisconsin, concerning which reports were secured by factory inspectors, the following disposition was made:

	Cases.	Per Cent.
Received nothing from employer	28	21.37
Received doctor's bills only	56	42.75
Received something in addition to doctor's bills	10	7.63
Received something, but not doctor's bills	34	25.96
Not settled	3	2.29
Total	131	100.00

Illinois Statistics

The Employers' Liability Commission of the State of Illinois has recently made a report on its investigation of industrial accidents and employers' liability. More than 5000 individual accidents were investigated and recorded, together with comparative figures and analysis. The result of the investigations of the Illinois Commission are given by Edwin R. Wright, secretary of the Commission, and president of the Illinois Federation of Labor.

Six hundred and fourteen fatal accidents were recorded. The families of 214 of these workers received nothing in re-

turn for the loss of the breadwinner. One hundred and eleven damage suits are pending in court. Twenty-four cases have been settled through court proceedings. Two hundred and eighty-one families settled directly with the employer.

Skilled railroad employes, in settlement for death claims, averaged about	$1,000.00
Steel workers	874.00
Railroad laborers	617.00
Skilled building tradesmen	348.00
Skilled electric railway employes	310.00
Unclassified workingmen	311.00
Miscellaneous trades	292.00
Packing house employes	234.00
General laborers	154.00
Mine workers	155.00
Electric railway laborers	75.00

Of every 100 industrial accidents, 15 go to court, 7 are lost and 8 are won. Ninety-two injuries out of every 100 receive no compensation. (This includes both fatal and non-fatal accidents.)

There have been 53 fatal cases of recent date. In fatal cases, the usual defenses of the employers—the fellow-servant doctrine, assumption of risks, etc.—did not apply, or there would have been no recovery at all. For these—the very pick of industrial cases—the average recovery for death was only $1877.36, of this an average amount of $740.95 was paid to attorneys or expended on court fees, etc., leaving an actual payment of $1126.41 to the family of the dead worker; 34 widows were compelled to seek employment and 65 children left school to help keep the wolf from the door.

Germany and England

The German state insurance during the twenty years ending in 1905 required payments amounting to $802,000,000. Of this sum, $555,750,000 were paid on account of sickness insurance; $232,750,000 were paid on account of accidents, and $13,500,000 paid on account of invalidism and old age. To the fund necessary to make these payments, the employer contributed $424,500,000. The employes contributed $377,000,000, and the Imperial Government paid the cost of administration and a small portion of the funds necessary to take care of invalidism and old-age pensions (50 marks in each case insured).

The general rules in respect to the raising of the insurance fund are that the employes should pay two-thirds of the fund necessary to take care of sick insurance, which lasts for thirteen weeks, and the employers pay one-third. In the case of accident insurance, the employers pay 85 per cent. and the employes 15 per cent. In the case of invalidism and old-age insurance, the Imperial Government pays $12.50 for each person injured, and the remainder of the fund is paid half and half by the employers and employes. The German plan in 1907 had 27,172,000 workingmen insured against sickness, accidents and old age, out of a population of 62,000,000 people.

The English plan in 1908, provided for the insurance of 13,000,000 workingmen. In case of death, the compensation paid is, at most, three years' wages, £300 or $1460, with a minimum payment of three years' wages at £150 or $730. In case of disability lasting longer than one week, the compensation paid is one-half week's average wage, not to exceed $4.87, as long as the disability lasts. Responsibility for the payment of the compensation rests solely on the employer, and employes are not required to insure.

In both the German and English plans the rules of contributory negligence, assumption of risk, and the fellow-servant rules are abolished, and the only kind of negligence recognized is that of malicious negligence on the part of the employer or employe.

The statistics of the United States show that over 50 per cent. of all industrial accidents are due to the inherent dangers and risks of the industrial business, that not to exceed 20 per cent. of all these accidents are due to or attributable entirely to, the negligence of the employer, and that, at most, 25½ per cent. are attributable solely to the negligence of the employe. *The common law furnishes no plan of relief, except where it can be proven that the defendant is at fault. Therefore, the common law affords no relief for something like 80 per cent. of all workingmen injured and killed in the United States. The lowest estimate of the number of persons injured and killed in industrial accidents in 1909 is 536,000 people.*

Montana, in 1910, put in operation a mutual plan of insurance for coal miners. The compensation paid the wife and children or dependents of a miner killed in the due course of his employment is $3000. In case the miner is totally disabled by an injury, he is paid $1 for each working day during disability. The loss of an eye, or limb, caused by accident to a miner while employed in or about a mine is compensated for in the sum of $1000. The compensations are paid from a fund which is administered by the auditor of state. The operators contribute to this fund according to the quantity of coal mined, and are authorized by law to deduct 1 per cent. from the wages due the miners.

The New York act of 1910 provided for a compensation to workmen ranging from $1500 to $3000 in case of death. Other injuries were proportionately compensated. These payments were to be borne by the employer whether he was or was not at fault. The injured workman had the choice of suing at law or of taking the compensation. The Appellate Court of New York has held this law unconstitutional.

The employers' liability commissions of Washington, Minnesota, Wisconsin and Ohio have reported acts to their respective legislatures recommending plans for compensation of workingmen for injuries without regard to fault. The Washington act provides a plan of obligatory mutual insurance, the state being the custodian of the fund. Compensation varies from $1500 to $4000 in case of death or total disability. This law has been enacted. Non-fatal injuries are compensated for at about 60 per cent. of the impairment of wages of the workingmen injured. The act defines a large class of dangerous employments. The employe waives the right to sue, and is compelled to accept the compensation provided by the act in lieu of all other remedies. The Washington plan also stipulates that the employer shall contribute to the first-aid fund 4 cents for each workday that an employe worked, which takes care of the injured workingman for the first three weeks following the injury. The law authorizes the employer to deduct 2 cents each workday from the wages of his employe.

The Minnesota plan is based upon state insurance and is applicable to all dangerous employments. The compensations are liberal, ranging from $1500 to $3000, in case of death. The compensation for workingmen partially disabled is 50 per cent. of the impairment of their earning power. The Wisconsin act is optional and follows the New York act in its principles and amounts of compensation.

New Jersey, in 1911, enacted a comprehensive employers' liability and workingmen's compensation law.

Massachusetts, Connecticut, Missouri and Texas have commissions studying the problem. Many of the other state legislatures are considering bills to abolish or largely modify the common law defenses.

The International Harvester Company has put into operation a voluntary plan of industrial insurance which provides compensation varying in amount from doctor's bills to $4000. the employes are not obliged to contribute anything to the fund, and compensations are paid without regard to fault. The acceptance of the compensation releases the company from a suit at law.

These numerous state commissions are endeavoring to answer the question, What plan of compensation shall be substituted for the old common law action based upon the fault of the employer? The evidence indicates that the most just and efficient remedy is obligatory industrial insurance, such as prevails in Germany.

Chautauquan. 41: 8-59. March, 1905.

Compulsory Insurance. I. M. Rubinow.

Under pressure of economic necessity a system of mutual aid sprang up in the main industrial countries, whose function it was to render assistance to the destitute workingman and so help him tide over the critical moment. What private or public charity was forced to do for many centuries, the sick benefit societies (*Krankenkassen*) of Germany or the trade unions of England have tried to accomplish by co-

öperative effort. Yet this necessary work was done very unsatisfactorily indeed when about the year 1880 the German government came out with its project of compulsory insurance.

It is not necessary to go into a searching inquiry as to the motives which influenced Bismarck to undertake what has been frequently called a system of state socialism. It has been established with a sufficient degree of certainty, that Bismarck was more anxious to counteract the rising wave of socialism than to improve the condition of the working masses. Yet it is acknowledged that Bismarck's method of fighting the spread of socialism was through the improvement of the condition of the workingmen; and that the grand structure of compulsory state insurance of workingmen denoted such improvement, cannot at present be denied.

Insurance against sickness was the first, in point of time, to grow up in Germany. After several years of considerable discussion and agitation, a bill was introduced in the German parliament in 1881 and with many modifications finally became a law in 1883. Several important changes were subsequently made, and the law as it exists today dates from the 10th of June, 1892. The changes consisted mainly in the extension of its force over classes of wage earners omitted in the original law, until today domestic servants are the only large class of wage earners for whom sickness insurance is not compulsory, though they may avail themselves of its benefits.

The popularity of sick benefit funds among the German workingmen for many decades before a system of state insurance was thought of, has provided Germany with a type of institution capable of handling the technical aspects of the problem; the state has therefore been relieved from undertaking the actual work of insurance; its action is limited to compulsion, regulation, and control. Because of this compulsion almost each and every German workingman is insured against sickness, or rather the economic burdens of it, in some organization; be it a "local fund" to which all workingmen of a small locality belong, or a "factory fund" where

all the employees of a great industrial establishment are insured, or again a "trade fund" uniting all workingmen of a certain trade in a great industrial center. These funds (*Kassen*) are managed partly by the employers, partly by the employees. The state then sees to it that whoever comes under the provisions of the law, should be insured, that the payment should be made, that no abuse be possible and that a certain minimum of assistance be granted by the fund; but many funds in the larger industrial centers grant a great deal more than the minimum required. Of the necessary premiums the workingman pays two-thirds and the employer contributes one-third. The legislator has evidently acknowledged that no matter how difficult it may be to establish the direct cause of each individual case of sickness, employment as such is an important factor in the causation of disease. The employer, *i. e.,* the business, must contribute to the expenses of the cure and care of the sick and their financial support, just as business is supposed to cover the expenses of fire insurance and wear and tear of the inanimate machine. The expenses of insurance to the worker are exceedingly small; they vary according to the organization and locality between 1½ per cent and 4 per cent of the workingman's wages and very rarely exceed 3 per cent; and with a rate of wages of 3 to 4 marks (60 to 80 cents) per day, the premium varies between 1 and 3.2 cents a day, or 6 and 20 cents a week, only two-thirds of which are paid by the employee, or rather by the employer for him.

Now let us see what the workingman gets for his "one cent a day." The benefits of the "sickness funds" include, as a minimum, (1) free medical and surgical treatment, as long as necessary, up to twenty-six weeks; medicines and any special treatment that may be found necessary, operations, obstetrical attendance, massage, electricity, baths, as well as medical apparatus, glasses, crutches, and even artificial limbs in some Kassen; (2) financial assistance to the patient or his family, equal to 50 per cent of his wages at least, and in some Kassen as much as 75 per cent. Insured workingwomen are entitled, besides, to a subsidy in case of childbirth,

so as to enable them to discontinue work both before and after the consummation of the act of maternity. Burial money is also given by these institutions, equal to from twenty to forty times the daily wage of the deceased. While these benefits are obligatory and universal, the activity of the large "sickness funds" in the many industrial centers has been very much widened, and here we see the beneficent results of coöperative activity under the encouragement of the state or the society at large. Not only have the benefits been made much more liberal, but the advantages of free medical treatment have been extended over the wage worker's families; hospital treatment and even a prolonged sojourn in sanatoria and institutions for convalescents have been provided by some of the Kassen.

Consider for a moment what this simple legislative act —which took into cognizance all existing institutions for self-help, and simply extended and regulated their activity —what it meant for the laboring population of Germany. It did away with the necessity of degrading medical charity which introduces so much demoralization into the homes of the American wage worker. The physician who treats the German worker free is paid by the Krankenkassen; all the benefits that are given to the sick are given because they are due to him, because it is his right to demand and receive them. When struck down with a serious illness, and unable to continue his regular work, the German workingman does not immediately fall into the atmosphere of condescension and pity, mingled with contempt. The material, hygienic and economic results are still more palpable, than the psychologic ones. The fear of a large professional bill does not deter the German worker from receiving necessary medical advice and assistance; one case of illness with its enormous expenses and concomitant loss of income does not destroy forever the economic independence of a self-sustaining family. As the French investigator, Edouard Fuster has well said, "The German system of sickness insurance saves the German worker his health and the German nation its vital powers."

Bodily ailments are scourges of all humanity without consideration of class or creed, but modern industrial life has subjected the worker to a long list of accidents to limb and life, which are specifically his own. The enormous development of machinery and the utilization of mechanical power, the swiftness of transportation methods, the dizzy height of building operations, and above all the nervous tension and hurry of a strenuous life, all these causes have contributed to increase the frequency of accidents and injuries to an alarming degree. Here we have a sum total of effects whose causation by industry cannot be doubted. For a long time European legislation had been, and American legislation even now is, much more preoccupied with the interesting problem of placing the blame of each individual accident, than the economically important effort at minimizing the injurious effects of them all. The Anglo-Saxon system of individual responsibility for an accident has been a signal failure as far as the reimbursement of the victim has been concerned. A whole series of common law doctrines grew up to limit the chances of obtaining such reimbursement. The "fellow servant" doctrine denies the worker the right to recover damages, if injured through carelessness of any co-employee. The doctrine of contributory negligence relieves the employer even in cases of acknowledged culpability, if it can be shown that the injured worker has also been somewhat negligent; thus the worker, who is only partly responsible, bears all the consequences and the employer, also partly responsible, bears none. The doctrine of assumed risk teaches that the workingman who has knowingly accepted dangerous employment shall stand all the consequences. And there are many others, no less far-reaching in their influence. The effect of all this is to make the cases of reimbursement of the poor wretches who have lost limb or health, and the widows and children, a very rare and problematic possibility. Nor does a system like this tend to promote the introduction of preventative measures.

The German system of accident insurance was a radical departure from this old method. Assistance to the sufferer

is made *the* very important problem. It is also acknowledged that whether the individual worker be negligent or not (and some acts of carelessness are committed by every human being) the industry as a whole is responsible for the frequency of accidents, and that the industry, *i. e.*, the employers, should pay all the expenses connected with accident insurance. The first law establishing compulsory accident insurance was passed on June 6, 1884, approximately one year after the experiment of sickness insurance was made. At first it applied to industrial workers only; in 1886 the law was extended to cover those employed in forestry and agriculture, and in 1887 the building trades and seamen. The entire accident insurance legislation as it exists today is a result of complete revision and codification in 1900. Unions of employers in each important branch of industry were created and the funds made up by contributions from the individual employers, the amounts being levied by assessment according to the size of the enterprise, number of workers, and also frequency of accidents. The organization by industries was thought essential because of the great difference in frequency of accidents in various industries. On the other hand the system of assessments shifts upon the careless employer the burden of an excesive frequency of accidents in his establishment.

The benefits paid to the insured are quite liberal and thorough. The minor accidents which do not require attendance beyond the first thirteen weeks, are taken care of by the sick insurance funds. From the fourteenth week on, the injured receives medical attendance, medicines, etc., as long as necessary, and financial assistance as long as his disability lasts, even for the rest of his life, if the disability be permanent. The injured workman is entitled to two-thirds of his wages for total disability to engage in any gainful employment, and a proportionate amount of the two-thirds if his disability be only partial, the facts in the case and the degree of disability being decided by a medical board. In case of death of the injured person, whether it be the immediate result of the accident or not, the widow

and orphans below fifteen years of age, each receive an annuity equal to 20 per cent of the earnings of the lost breadwinner; the maximum annuity is, however, limited to 60 per cent. The relatives in the ascending line are entitled to an annuity equal to 20 per cent of the wages and grandchildren have the same rights if they had been depending on the deceased for their support. In case of remarriage, the widow (but not the children) loses her right to the annuity, but receives the final payment of 60 per cent as a dowry. A special payment is also made to cover the funeral expenses in case of death, which equals one-sixteenth of the annual wages, but cannot be less than fifty marks ($12). There are numerous minor benefits as well as provisions to safeguard the interests of the victims of the accident as well as those dependent upon him. Too much stress can not be laid upon the fact that the causation of the individual accident and the degree of carelessness of the injured are totally disregarded in deciding the amount of the annuity, except in so far as to exclude injuries wilfully and maliciously self-inflicted.

All these payments cannot recompense the injured workman for a lost limb, or ruined health, cannot console the widow and orphans for the loss of a dear life. But no human power has succeeded in accomplishing all that. What the system of accident insurance has succeeded in bringing about, is an avoidance of all costly and tedious litigation, which promised little and taxed the workingman much, and made him wait long even in those cases where the employer's gross neglect was perfectly self-evident. It established the principle that an industrial worker, who had spent his health and life in the production of goods socially useful, is entitled to a better fate than starvation and misery, if incapacitated while in performance of useful work—a principle universally admitted with regard to the soldier by the whole American people. It has given the German workingman a sense of security for the future which his American comrade, notwithstanding his higher rate of wages, certainly does not possess.

Sickness or accidents are the emergencies of a workingman's life, frequent, and to be expected, yet not inevitable and often temporary. They do not by far complete the list of all the vicissitudes of a wage-worker's existence. Without any special, definite, easily-to-be-noticed case of violence, the health and strength of the worker may be so reduced, as to make him unfit to obtain profitable employment. Such cases must necessarily grow with the general tendency of speeding up the processes of manufactures. Ten to twelve hours of continuous work at the high rate of tension which prevails in the modern factory, frequently produce that premature old age, which is a typical and distressing feature of modern civilization. Again, quite apart from any of these cases of invalidity and premature old age, there is for the workingman that inevitable prospect of an old age perhaps quite normal and physically unavoidable, during which a quest for a job would meet no encouragement.

Perhaps nothing is more distressing in the conditions of modern life, than the sight of an old and decrepit man forced to eke out his existence by the work of old shaky hands, by means of weakened, half-blind eyes. What becomes of all these men who get nothing to eat unless they work? What becomes of them when they are too old to work? They fill the hospitals, the poor- and work-houses, are often supported by their children, and some of course, "retire," *i. e.*, they live on the proceeds of their savings.

But how many can save? It seems to be the widely accepted theory in this country, that all who wish can save, and that, too, sufficiently to last them through their declining days. Our overseers of the poor, and chiefs of departments of charities and corrections may possibly hold a different opinion. A German official investigator, Professor Bielefeldt, states the case very succinctly when he says, that "wages as a rule, are about sufficient to satisfy the ordinary demands of every-day existence, and totally fail at the time of extraordinary disturbances of the working labor power of the bread-winner of a family." How much more true it is of cases of complete and permanent failure of labor power!

The system of invalid and old age insurance naturally came as a fitting sequel to insurance against sickness and accidents. The German law making such insurance compulsory was promulgated in June of 1889, and revised in 1899, in which form it is in force at present. In point of latitude the law is more sweeping than the sick insurance law, and it includes besides wage workers, also independent tradesmen and even petty employers of labor.

At the time when the plans for old age insurance were elaborated in Germany two tendencies asserted themselves. Some aimed to make it a system of pensions and proposed to put the whole burden on the state treasury, others thought that insurance should only be modified saving and that the state should do no more than encourage and even compel, if necessary, each workingman to save. The system, as it was actually carried through, was a combination of both principles.

Every person of the classes designated must be insured if over sixteen years of age. The insurance demands a weekly payment of from 14 to 36 pfennigs (from 3 to 8 cents) a week, according to the amount of wages received; this payment is divided equally between the employers and the employees, so that the workingman contributes only from 1½ to 4 cents a week. The state's share consists in contributing 50 marks ($12) a year to each pension or annuity, besides sharing to a large extent in the expenses of administration. In return for his small payments the insured is entitled to an invalid pension in case of a general failure of health or a prolonged sickness (if it lasts over twenty-six weeks during which the sick benefit funds render the necessary assistance). The annual amount consists of the fifty marks supplied by the government and an annual sum determined in a rather complicated way by the amount of the weekly payment and a third sum dependent upon the number of payments actually made. Thus there are combined in this system the three elements of pension, insurance and savings. The actual sum varies from 116 to 450 marks a year.

A similar annuity is paid to each insured who has reached the age of seventy, provided he has paid in at least 1,200 weekly premiums (that is for about 25 years); the amount of the old age annuity is much smaller, varying between 110 and 230 marks. There are also various provisions for medical treatment of the invalids, return of monies to workingwomen at the time of their marriage, etc. The sums paid are not any too extravagant, it is true, and the age of seventy years so high, that the workingmen have justly refused to become very enthusiastic over the prospect of $26 to $54 a year at an age which a hard working man reaches very rarely, though it must not be forgotten that this sum means a great deal more in Germany than in the United States. Yet the invalid insurance is more promising, and, what is much more important, the German insurance legislation is not at a standstill. The first wedge has been entered, the principle has been established, and further efforts will undoubtedly bring about the desired results, that the self-respecting wage worker need not fear becoming a pauper or a public charge at an age that should command respect, and should be entitled to the comforts of quiet home life.

For some years Germany stood alone in her bold undertaking. The industrial world watched with horror these encroachments upon the time-honored political philosophy of "laissez faire."

But the beneficial results of this scheme became so palpable, that its influence did not fail to extend far beyond the borders of the German Empire. At first the opposition to "this craze of compulsion," as it was called by an Italian economist, was violent and bitter. But opposition soon gave way to imitation. The semi-German neighbor of Germany, Austria, was the first to follow. The Austrian system of sick insurance, introduced in 1888, was an improved copy of the German Legislation. The minimum of sick money has been made 60 per cent instead of 50, and the agitation has finally resulted in a sickness insurance law which was made applicable to all industrial and agricultural workers with a maximum wage of 1,200 gulden (about $480). In the matter

of accident insurance, German influence was still more potent, even if most other countries have somewhat modified the German system. The Austrian law of 1887 has closely followed the German pattern, though the organization of the funds is not by industries, but by territorial divisions. Another distinct feature of the Austrian system is that the workmen are made to participate in the expenses of accident insurance to the extent of 10 per cent.

Until 1895 Germany and Austria kept this isolated position. Then almost all the other European nations rapidly fell in line. Norway, Finland, Italy and Holland have by this time systems of obligatory accident insurance. All these countries have organized central governmental banks to carry on the insurance business, but kept the provision forcing the employer to pay all the charges. The last three states named also permit insurance in private insurance companies.

In a number of European countries a somewhat modified system has been introduced, which goes by the name of compulsory compensation for accidents. No special organizations are created, but the individual employer is financially responsible for the payment of indemnities and annuities without the slow process of litigation. Great Britain, since 1898, Denmark and France since 1899, Sweden since 1901, have been among these countries. Even backward Russia was forced to yield to the demands of the workers and public opinion, and has had a similar law since January 1, 1904. Belgium passed its law before the close of 1903, to take effect during the current year. In so far as it guarantees the workingman the benefits of compensation when an accident does occur, it is a system of insurance in principle, if not in name. Unfortunately it works very imperfectly. The recalcitrant and irresponsible employer must frequently be sued against, and in cases of the small and financially weak employer of labor, a prolonged payment of an annuity becomes somewhat uncertain in these days of insecurity for even considerable enterprises. When the employer has failed,

the claim of the invalid, though usually given a preferred standing, may or may not be made good.

These harmful features are somewhat limited by the permission granted to the employer to reinsure himself against these claims in some private company, and it is a powerful argument in favor of insurance that the better class of employers usually prefer to do so. However, the protests against this half measure are loud in France, Belgium and Russia, and a closer modeling after the German pattern is, in these countries, probably a matter of time. But in no industrial country of Europe has the old system survived, with litigation for a bulk sum, the larger part of which falls into the hands of the rapacious attorney, while in most cases no damages can be recovered at all.

No other European country has as yet followed Germany's example in the matter of a thorough and universal system of old age and invalid insurance; but scarcely a civilized country can be named in Europe where the scheme has not been agitated during the last ten years, and has not been discussed and presented to the legislative bodies. In fact so rapidly does the influence of the German institutions spread, that any statement made is liable to be out of date the next day. Since 1891 no single year has passed but has brought some important measure in the domain of labor insurance in some European country. Above all it must be pointed out, that the influence of German example is much broader than the few quoted examples of *compulsory* insurance would indicate.

It is absolutely impossible in this paper to give even a brief survey of the many and varied systems of voluntary insurance existing in France, Italy, Belgium, England, Switzerland—in fact in almost all European countries. The existence of these voluntary and private organizations aiming at assistance in case of sickness, and of various private and governmental savings banks, to encourage savings and provision for the future, is often pointed at as an argument against the necessity of compulsory insurance systems. Yet the development of even these institutions, under governmental

control and often with governmental assistance, was due to the stimulus of the German example; notably so in France, Belgium and the Scandinavian countries. But notwithstanding this considerable governmental aid, the number of insured remains as small and the struggle for a comprehensive compulsory system continues.

Statistical figures usually make very dry reading, and it is not the purpose of this short study to frighten away the reader from a subject exceedingly serious and complicated, and therefore necessarily difficult, by delving in unnecessary technicalities and details. Yet a few statistical data are quite necessary to convey a proper conception of the important result already achieved within the short period of twenty years.

In 1902 the German Empire had a population of 57,700,000 and the number of wage workers was approximately above 10,500,000. In that year there were 10,500,000 persons insured against sickness, 17,600,000 against accident, and 13,400,000 names were enrolled for old age and invalid insurance. The differences are due to the fact that the different laws do not all embrace exactly the same classes, and as voluntary insurance is permitted to large groups of persons for whom it is not made obligatory, the three insurance systems do not prove an equal attraction. In the case of accident insurance the number of insured actually surpasses the number of wage workers; it evidently includes many hundreds of thousands from other economic classes. The figures certainly show that the German system of insurance is a universal system of insurance.

During these seventeen years almost 48,000,000 cases of illness with more than 809,000,000 sick days have come under the care of the sick benefit funds and over 1,000,000 victims of accidents assisted. For the period of seventeen years the total income of the sick insurance funds reached the enormous sum of $504,100,000 of which $144,500,000 was contributed by the employers and $335,200,000 by the employees and $23,400,000 was received as interest and other income. The expenses for the same period were $464,200,000, leaving

with the sick benefit funds, a reserve of $43,700,000. Of this enormous sum only $27,000,000 or 5.8 per cent was spent for purposes of administration, and all the rest went directly to help the insured. Moreover these expenses show a marked tendency to decrease. In 1885 they were 6.31 per cent of the total expenses, and in 1901 only 5.61 per cent. Certainly no private insurance company in the world was able to make such a showing, and with some of the American insurance companies who make a specialty of insuring people of moderate means, the expenses of administration were four or five times as high.

The results of accident insurance, though told in somewhat smaller numbers, are in their way no less imposing. For the same period the income was $230,800,000, all of which with the exception of $28,400,000 of miscellaneous income, was paid by the employers. Here the expenses have been $198,100,000, leaving a reserve of $42,700,000.

Old age and invalid insurance has been in existence a much shorter time, but its operations from the very beginning have been on a much larger scale; for the eleven years 1891-1901 altogether $376,100,000 has been collected of which $285,500,000 has been contributed by employers and employees in approximately even shares; the share of the state constituted $50,200,000 and $40,500,000 came from miscellaneous sources. The payments here were necessarily much smaller, the larger part going into a reserve fund for future pensions. The total expenditures were $161,000,000 of which only $18,300,000 or 11.4 per cent was for purposes of administration. From 1891 to 1901 the expenses of administration had fallen from 20.3 per cent to 9.3 per cent. The reserve fund of the old age insurance system has reached within eleven years the enormous amount of $217,400,000.

For all forms of insurance together, $1,121,000,000 was received, of which $500,000,000 was contributed by the employers, $469,000,000 by the workers, $50,200,000 by the state, and $92,000,000 from other sources, mainly interest. The expenditures were $821,000,000 of which $78,600,000 were for administration purposes, or 9.6 per cent. An enormous re-

serve capital of $303,800,000 was collected, to be devoted to the welfare of the workers in the future. We have used these large totals for seventeen years for the purpose of emphasizing the enormous dimensions of German insurance activity. It must not for a moment be thought, however, that a range of one year's activity can be obtained through a simple division of the totals by seventeen. The influence of labor insurance has rapidly grown in quantity as well as quality, and in 1901 alone the payments received were $123,200,000 and the expenditures $99,300,000. Of all the sources of income the contributions of the employers have been growing most rapidly, from 28 per cent of the income in 1885 to 45 per cent in 1901, while the workingman's share has decreased from 72 per cent to 38 per cent.

Thus the employers, and to a much smaller extent the state, were forced by Germany's legislation to contribute large sums to the comfort and happiness of the whole working people. A wanton and arbitrary process of confiscation it has been called by some, while others are more inclined to look upon it in the nature of a payment of an old and just debt. It must be noticed that the objections are much louder outside of Germany than among the German employers, the majority of whom have gradually come to see the justice of this institution.

The limited space of this short study absolutely prohibits any extensive comparisons with other countries. The example of Belgium may be quoted briefly to show the superiority of compulsory as against a voluntary system of insurance. Sickness insurance is carried on by friendly societies which are encouraged and assisted by the government. Notwithstanding this, and the highly developed spirit of coöperation, the membership scarcely reaches 600,000 or less than 9 per cent of the population, while in Germany the insured equal 18 per cent; and though Belgium expends several million dollars each year in bonuses for small savings bank accounts, only about 100,000 workmen are members of the superannuation fund. In view of these conditions the Belgian government was forced to grant temporarily (until 1911) the

annual sum of 65 francs ($13) to all the workmen over the age of 65 who are in need, and the number of pensioners has passed 200,000.

One must, however, guard against the mistake of idealizing conditions. Criticisms of the compulsory insurance system in Germany are not wanting; but they are directed against certain provisions and the working of the system and much less against the principle itself, as even the employers have acquiesced in it, though they carry the heaviest burden.

Some of those faults were pointed out above, namely the high age limit of old age insurance and the very limited compensation. A feeling is also growing up that a wage worker who loses his health or limb through no fault of his own, should not be made to lose even one-third of his income. Further efforts will undoubtedly be made to remedy this and other shortcomings. Compulsory insurance has not brought the millennium to the German people. Nor was it expected. It has not even altogether destroyed poverty, for it has not even touched upon one of the main causes, which is not sickness, nor accident, but unemployment. Several experiments with insurance against unemployment have been made in Swiss towns, but have met with failure. And a compulsory system of state insurance against unemployment has never as yet been tried. But it would hardly be fair to condemn a social institution for not having succeeded in accomplishing something which it never intended to undertake. In its own field the system of compulsory sick, accident, old age and invalid insurance has proved more efficient and satisfactory than any other practical measures directed toward the same ends that has ever existed. No greater praise can be given to an existing human institution.

Independent. 61: 1475-80. December 20, 1906.

Greatest Life Insurance Wrong. Louis D. Brandeis.

For the greatest of life insurance wrongs—the so-called industrial insurance—the Armstrong Committee failed to

offer any remedy. And yet nearly three-fourths of all level premium life insurance policies issued are of this character. On December 31, 1905, the day after the committee closed its hearings, there were 16,872,583 industrial policies outstanding in the United States. In New York alone their number was then 3,898,810, and while the committee was sitting, an average of 67,200 such policies were being issued in that state every month.

Industrial insurance, the workingman's life insurance, is simply life insurance in small amounts, on which the premiums are collected weekly at the homes of the insured. It includes both adult and child insurance. The regular premium charge for such insurance is about double that charged by the Equitable, the New York Life, or the Mutual Life of New York, for ordinary life insurance. In the initial period of the industrial policy, the premium rate rises to eight times that paid for ordinary insurance, since, by a clause which will be found in most industrial policies, it is provided that if death occurs within the first six months after the date of the policy, only one-fourth of the face of the policy will be paid, and if death occurs within the second six months, payment will be made of only one-half. So heavy are the burdens cast upon those least able to bear them.

The disastrous result to the policyholder of this system of life insurance may be illustrated from the following data, drawn from Massachusetts official reports:

In the fifteen years ending December 31, 1905, the workingmen of Massachusetts paid to the so-called industrial life insurance companies an aggregate of $61,294,887 in premiums, and received back in death benefits, endowments or surrender values an aggregate of only $21,819,606. The insurance reserve arising from these premiums still held by the insurance companies does not exceed $9,838,000. It thus appears that, in addition to interest on invested funds, about one-half of the amounts paid by the workingmen in premiums has been absorbed in the expense of conducting

the business and in dividends to the stockholders of the insurance companies.

If this $61,294,887, instead of being paid to the insurance companies, had been deposited in Massachusetts savings banks, and the depositors had withdrawn from the banks an amount equal to the aggregate of $21,819,606 which they received from the insurance companies during the fifteen years, the balance remaining in the savings banks December 31, 1905, with the accumulated interest, would have amounted to $49,931,548.35—and this, altho the savings banks would have been obliged to pay upon these increased deposits in taxes to the Commonwealth more than four times the amount which was actually paid by the insurance companies on account of the insurance.

Perhaps the appalling sacrifice of workingmen's savings thru this system of insurance can be made more clear by the following illustration:

The average expectancy of life in the United States of a man 21 years old is, according to Meech's Table of Mortality, 40.25. In other words, take any large number of men who are 21 years old, and the average age which they will reach is 61¼ years.

If a man, beginning with his 21st birthday, pays thruout life 50 cents a week into Massachusetts savings banks, and allows these deposits to accumulate for his family, the survivors will, in case of his death at this average age of 61¼ years, inherit $2,265.90 if an interest of 3½ per cent. a year is maintained.

If this same man should, beginning at age 21, pay thruout his life 50 cents a week to the Prudential Insurance Company as premiums on a so-called "industrial" life policy for the benefit of his family, the survivors would be legally entitled to receive, upon his death at the age of 61¼ years, only $820.

If this same man, having made his weekly deposit in a savings bank for 20 years, should then conclude to discontinue his weekly payments and withdraw the money for his own benefit, he would receive $746.20. If, on the other hand,

having made for 20 years such weekly payments to the Prudential Insurance Company, he should then conclude to discontinued payments and surrender his policy, he would be legally entitled to receive only $165.

So widely different is the probable result to the workingman if he selects the one or the other of the two classes of savings investment which are open to him; and yet life insurance is but a method of saving. The savings banks manage the aggregate funds made up of many small deposits until such time as they shall be demanded by the depositor; the insurance company manages them ordinarily until the depositor's death. The savings bank pays back to the depositor his deposit with interest less the necessary expense of management. The insurance company in theory does the same, the difference being merely that the savings bank undertakes to repay to each individual depositor the whole of his deposit with interest; while the insurance company undertakes to pay to each member of a class the average amount (regarding the chances of life and death), so that those who do not reach the average age get more than they have deposited (including interest) and those who exceed the average age less than they have deposited (including interest).

It is obvious that the community should not and will not long tolerate such a sacrifice of the workingmen's savings as the present system of industrial insurance entails; for the causes of this sacrifice are easily determined and a remedy lies near.

The extraordinary wastefulness of the present system of industrial insurance is due in large part to the fact that the business, whether conducted by stock or by mutual companies, is carried on for the benefit of others than the policyholders. The needs and financial inexperience of the wage-earner are exploited for the benefit of stockholders or officials. The Prudential (which was the first American company to engage in the business) pays annual dividends to its stockholders equivalent to more than 219 per cent. upon the capital actually paid in; the Metropolitan dividends are

equivalent to 28 per cent. of such capital; and stock in the Columbian National Life Insurance Company, a corporation which commenced business but four years ago, has risen from par to $296.

But the excessive amounts paid in dividends or in salaries to the favored officials account directly for only a small part of the terrible shrinkage of the workingmen's savings. The main cause of waste lies in the huge expense of soliciting insurance, taken in connection with the large percentage of lapses, and in the heavy expenses incident to a weekly collection of premiums at the homes of the insured. The commission of the insurance solicitor is from ten to twenty times the amount of the first premium. The cost of collecting the premiums varies from one-fifth to one-sixth of the amount collected. And yet commissions for soliciting and collection are only a part of the expenses. The physician's fee, the cost of supervision, of accounting and of advertising must all be added; with the result that no industrial policy "pays its way" until it has been in force about three years. In other words, if the policy lapses before it has been in force three years, not only does the policy-holder lose (except the temporary protection) all that he has paid in, but the company (that is the persisting policy-holders) bears a part—generally the larger part—of the cost of the lapsed policy.

And only a small percentage of industrial policies survive the third year. A majority of the policies lapse within the first year. In 1905, the average payments on a policy in the Metropolitan so lapsing continued little more than six weeks. The aggregate number of such lapses in a single year reaches huge figures. In 1905, 1,253,635 Metropolitan and 951,704 Prudential policies lapsed. The experience of their young and energetic rival, the Columbia National Life Insurance Company, is even more striking. On January 1, 1905, that company had outstanding 40,397 industrial policies. It wrote, during the year, 103,466. At the end of the year it had outstanding only 63,497; and yet, of the 143,863 policy-

holders, only 699 had died, while 79,677 policies—that is, one hundred and fourteen times as many—had lapsed.

The results of this system of insurance establish conclusively that, in the conduct of the business, the interests of the insured are ignored. A life insurance company for workingmen should, as to each policy-holder, be conducted, like a savings bank, as a benevolent institution. No one should be induced to take out a policy unless it is advisable for him to do so in the interests of those whom he wishes to protect by it. No one should be lured into becoming a policy-holder. No one should take a policy unless he will probably be able and willing to continue it in force. Furthermore, economy in the management of the insurance savings is as essential to satisfactory results as the economy on the part of the workingmen, which alone makes it possible to pay premiums.

The supporters of the present system of industrial insurance declare that a reduction of expenses and of lapses is impossible. They insist that the loss to the insured and the heavy burden borne by the persisting policy-holders from lapses, as well as from the huge cost of premium collection, must all be patiently borne as being the inevitable incidents of the beneficent institution of life insurance, when applied to the workingman. It is obvious that a remedy cannot come from men holding such views—from men who refuse to recognize that the best method of increasing the demand for life insurance is not eloquent persistent persuasion, but to furnish a good article at a low price. A remedy can be provided only by some institution which will proceed upon the principle that its function is to supply insurance upon proper terms to those who want it and can carry it, and not to induce working people to take insurance regardless of their real interests. To attain satisfactory results the change of system must be radical.

The savings banks established on the plan prevailing in New York and generally thru the New England States are managed upon principles and under conditions upon which alone a satisfactory system of life insurance for working-

men can be established. These savings banks have no stockholders, being operated solely for the benefit of the depositors. They are managed by trustees, usually men of large business experience and high character, who serve without pay, recognizing that the business of collecting and investing the savings of persons of small means is a quasi-public trust, which should be conducted as a beneficent, and not as a money-making institution. The trustees, the officers and the employees of the savings banks have been trained in the administration of these savings to the practice of the strictest economy. While the expenses of managing the industrial departments of the Metropolitan, the Prudential and the John Hancock companies have, excluding taxes, exceeded 40 per cent. of the year's premiums, the expense of management in 1905 (exclusive of taxes on surplus) of the 130 New York savings banks, holding $1,292,358,866 of deposits, was only 0.28 of 1 per cent. of the average assets, or 1 per cent. of the year's deposits; and the $662,000,000 of deposits held in 1905 in the 189 Massachusetts savings banks were managed at an expense of 0.23 of 1 per cent. of the average assets, or 1.36 per cent. of the year's deposits.

Savings institutions so managed offer adequate means of providing insurance to the workingman. With a slight enlargement of their powers, these savings banks can, at a minimum of expense, fill the great need of cheaper life insurance in small amounts. The only proper elements of the industrial insurance business not common to the savings bank business are simple, and can be supplied at a minimum of expense in connection with such existing savings banks. They are:

First—Fixing the terms on which insurance shall be given.

Second—The initial medical examination.

Third—Verifying the proof of death.

The first is the work of an insurance actuary; and the present cost of actuarial service can be greatly reduced both by limiting the forms of insurance policies to two or three standard forms of policy to be uniform thruout the state, and by providing for the appointment of a state

actuary, who, in connection with the insurance commissioner, shall serve all the savings insurance banks.

The initial medical examination and the verification of proof of death are services that may be readily performed for the savings banks at no greater pro rata expense than for the existing insurance companies.

The insurance department of the savings banks would, of course, be kept entirely distinct as a matter of accounting from the savings department; but it would be conducted with the same plant and the same officials, without any large increase of clerical force or incidental expense except such as would be required if the deposits of the bank were increased. On the other hand, the insurance department of savings banks would open with an extensive and potent goodwill, and under the most favorable conditions for teaching the value of life insurance—a lesson easily learned when insurance is offered at about half the premium now exacted by the industrial companies. With an insurance clientele composed largely of thrifty savings banks depositors, the expensive house to house collection of premiums could be dispensed with, and more economical payments of premiums could probably be substituted for weekly payments. Indeed, it is probable that the following simple, convenient and inexpensive method of paying premiums would, to a large extent, be adopted, namely, making deposits in the savings department from time to time, and giving, when the policy is issued, a standing order to draw on the savings fund in favor of the insurance fund to meet the premium payments as they accrue.

The safety of savings banks would, of course, be in no way imperiled by extending their functions to life insurance. Life insurance rests upon substantial certainty, differing in this respect radically from fire, accident and other kinds of insurance. Since practical experience has given to the world the mortality tables upon which life insurance premiums rest and the reserves for future needs are calculated, no life insurance company has ever failed which complied with the law governing the calculation, maintenance and investment

of the legal reserve. The causes of failure of life insurance companies have been excessive expense, unsound investment or dishonest management. From these abuses our savings banks have been practically free, and that freedom affords strong reason for utilizing them as the urgent need arises to supply the kindred service of life insurance.

In Massachusetts, the proposition of permitting savings banks to establish insurance departments has already taken definite shape. The plan has been recently submitted to the Recess Insurance Committee of its Legislature, and many of its eminent and public-spirited citizens have associated themselves under the name of Massachusetts Savings-Insurance League, for the purpose of securing the passage of a permissive act.

Massachusetts laid the foundation of America's admirable system of savings banks by chartering in 1816 the Provident Institutions for Savings in the Town of Boston. Massachusetts established for the world the scientific practice of life insurance by the work of its great insurance commissioner, Elizur Wright. It seems fitting that Massachusetts should lead in another great advance in the development thru thrift of general prosperity by extending the functions of savings banks to the issuing of workingmen's life insurance.

State Insurance.* 1909. Chapter 3.

Frank W. Lewis.

We are to consider whether state insurance—the insurance especially of workmen, against accidents, sickness, invalidity and death—are within the proper and legitimate sphere of the general attitude of the state toward social legislation.

Some of the tests of the obligation of the state in this direction are simple: Would such insurance tend to mitigate industrial injustice? to distribute more justly and automati-

*This chapter from Frank W. Lewis's book on State Insurance is reprinted by permission of the publishers, Houghton, Mifflin and Company, Boston and New York.

cally, in a sense, the product of labor? to contribute toward contentment among the industrially or economically weak by making more nearly equal industrial opportunity between classes? Would it tend to diminish pauperism and extreme poverty? Is it practicable or possible to accomplish fully the benefits of insurance by any individual effort? Does society need some such measure for its own well-being? Is it preëminently a suitable and legitimate subject for collective action?

The suggestion of government insurance against the vicissitudes of life is not a new one; it has been agitated for the past fifty years in Germany, England and France. The imperfection and inadequacy of all existing systems and plans has been recognized. It has become evident to thoughtful men that the matter should not be left entirely to private initiative and management. It has become the accepted doctrine that such insurance should be under the control of the state, as is shown by the appointment of legislative and parliamentary commissions and by the ample powers conferred upon state insurance departments.

If, then, it is objected that state insurance would be paternalistic and socialistic, it must be kept in mind that the paternal attitude toward insurance has already been taken by every civilized state in its assumption of supervision and control. And it may be fairly claimed that all insurance is in its very nature socialistic. Society, or a definite section or stratum of society, carries a burden in behalf of its members which the individual components cannot carry. The peril which menaces an individual fills him with apprehension as an individual, but he can look forward to meeting his share of the danger as a member of society with complacency. He does not seek to evade a burden but to readjust it.

Before men thought of making provision for such events by contract it was deemed a sacred obligation among them to provide for the victims of sudden calamities, of accident, sickness, or death, as a matter of humanity or Christian

charity. Whether in the form of written law or otherwise, there has been this universal sense of social obligation.

There is another feature of the matter which must be considered when we talk of the paternal aspect of government insurance. A large portion of the poverty and pauperism which prevails is traceable to the misfortunes which overtake workmen, for which they have made no provision. Precisely how large a percentage of the whole may be charged to these causes it is not material at this stage to discuss. A highly competent authority, quoted elsewhere, would attribute at least a major portion of all poverty and pauperism to the misfortunes which overtake the poor rather than to fault. But can any kind of law be more distinctly and more odiously paternalistic than one which levies upon the property of A to support B as a pauper? which violently takes from the prosperous to support the destitute? from the thrifty for the thriftless? from the temperate and provident to the intemperate and improvident?

Now if a system can be devised under which the workman, as a rule, makes provision for all the ordinary contingencies of the future, and whereby society is relieved of a large part of the burden of pauperism we accomplish a certain end by a method quite dissimilar, while each method is distinctly paternal. It would hardly be contended that a law which compels one man to support another is to be preferred over one which compels a man to support himself.

The incidence of charges under a system of government insurance will be treated of elsewhere, but if we assume, for the moment, that all such charges are to be borne by the state, it will readily be seen that there is not any additional burden carried—only a burden in another form, whether more or less odious or irksome. As it is now, without the finest discrimination, we pension one dependent and send another to the poorhouse; we give a badge of honor to a soldier who has served or suffered on his country's battlefields, but we brand with the stigma of disgrace the soldier of industry who has suffered in health or in limb in the

industrial life of his generation. Through a system of state insurance it is proposed that certain methods of dealing with a certain social problem be replaced by something not more paternalistic but far more just; to readjust certain relations between classes on more scientific and more ethical foundations.

Whether in the aggregate, the burdens now carried by society on account of its unfortunate, helpless members would be diminished under the scheme proposed must be a matter of speculation. It certainly would seem reasonable to hope that under a systematic scheme of insurance against accidents, sickness, and invalidity there would be great economy compared with present methods, admitted to be wasteful and unscientific. It would not be optimistic to hope for the gradual eradication of pauperism and poverty under a method which leaves nothing to haphazard, but scientifically anticipates the future; to look for a more hopeful feeling among the classes that find themselves hopelessly drifting towards poverty and dependence; to look for a great increase of thrift when men themselves see that nothing is left to chance, but that they, under the encouragement of a definite plan, are themselves making provision for all the vicissitudes of the future; to look for a distinct access in true manhood when the humblest and poorest workman realizes that he is receiving a reserve of wages earned and not the odious dole of charity when vicissitudes come.

It is a trite saying that the state cannot through legislation compel thrift; to which the statement should be added that the state ought to encourage thrift and should put no obstacles in its way. It must be admitted by all who study the subject that the state does often encourage thriftlessness, and nowhere more manifestly than by its poor laws and their administration.

A system which would tend to inspire hope rather than despair; which would guarantee that the hard earned wages of the thrifty would not be levied upon to support the improvident; which would compel every industry to bear its own burdens; which would demonstrate to some degree by

infallible tests something as to the true share of labor in a given product; which would reveal in all its nakedness and hideousness that predatory feature of many industries which permits capital to rob men of life, limb or health in unhealthy and dangerous employments and turn over the wrecks to the care of society,—a system which would promise to accomplish these ends or a part of them is worthy the careful attention of philanthropists and statesmen.

Judgment might be challenged quite confidently upon the proposition that insurance such as is proposed is preëminently within the proper functions of a state. Let us suppose, if we can, a civilized state whose policies have been individualistic in the extreme—a state without public education, public highways, public control or supervision of waterways, of health, of sanitation; having no care for the insane or the pauper; without a system of state insurance for workmen. Imagine this state awakening to a sense of its social responsibilities and to the need of social legislation, laying aside its conventional prejudices against collectivism and paternalism, realizing that there are many ends to be accomplished which can be reached only by collective effort. Imagine it slowly, tentatively, but with intelligent discrimination, starting upon its course, taking the step which seems of all the most urgent. Might not this state conclude that there was no object more imperative than the insurance of workmen; none appealing more strongly to the paternal solicitude which the state should have for its weaker members; none where the best efforts of the individual would be so impotent and ineffectual; that there was nothing else within the sphere of the material needs of men, affecting their protection, comfort, peace of mind and well being, for collective means through law promised more beneficial results,—results, however, which have never been fully achieved without the intervention of the state.

Assuming, then, what all are inclined to admit, that insurance for workmen through some agency, private or public, is highly desirable, the grounds for state insurance would seem to be very strong.

As has been suggested, the end can be achieved only by some sort of collective effort; the propertyless individual may, by slow accumulation of savings, if his wages admit of it, make provision for old age, but he cannot prepare for the accident, sickness, or incapacity that may come without warning tomorrow. He looks for some method or plan that will combine scientific accuracy, economy of management, absolute safety and security, and practical universality.

The individual knows and can know practically nothing as to the actual risks which menace him, judged by the law of averages, or what it ought to cost him to insure against any hazard or class of hazards. The actuarial questions involved are difficult and intricate, requiring the most careful weighing of complicated statistics. The state is best qualified to procure such statistics with economy and accuracy and to prepare reliable tables of morbidity and mortality; it may also construct minute tariffs of risks, as has been done under German laws. The state is already partially equipped for such work, and procures for other purposes a considerable portion of the data required. No other agency or source of information would command as great confidence as the bureau of a well regulated state. It may, too, be fairly claimed that the state is peculiarly adapted to the administration of insurance and the calculations required, as they are largely matters of mere mechanical routine. The workman needs to have the cost of insurance, in its various forms, authoritatively stated, and to procure it at the minimum of cost. Thousands are today dissuaded from taking insurance because they realize that they must pay for it excessive rates. A competitive system with its enormous reduplication of solicitation, exists at the expense of the insured and bears most heavily on those most needing insurance and least able to bear any unnecessary burdens. The state can provide for insurance at the very minimum of cost. Much of the work required could be brought under existing insurance departments and municipal machinery. There would be no hordes of solicitors, all of whom must earn a living; no extravagantly paid officials; no palatial offices or costly

buildings; no corruption funds to control elections or legislatures.

There is no subject that engages the thoughts of men, involving the payment of money or the investment of funds, over which there is greater solicitude as to safety and security than that of insurance against the vicissitudes of life. For this feeling there are powerful reasons. Insurance against accidents, sickness, invalidity and death concerns the most serious and important aspects of human affairs. If the insurer fails to perform his part of the contract, the loss may be irreparable or worse than irreparable,—the injured may not only have lost the funds invested, but through advancing age or diminished earning capacity he may have become unable to reinsure; the contract, if for an old-age pension, is to be carried out often at a far distant day, perhaps after an interval of fifty years; if the contract is for life insurance it is indefinite in its duration, but its adjustment, after the death of the insured must be effected by others. But the contract of the state offers absolute safety and security; no incompetency, extravagance, or dishonesty of officials can impair the solemnity of its guaranty; through all ordinary mutations in financial and political affairs the state must endure; if it makes a contract today to be fulfilled in the indefinite or far distant future, the party interested relies upon its promises with serene confidence. The state may offer this absolute security without the accumulation of any reserve; with the introduction of compulsion all necessity for a reserve disappears.

The prudent man who makes provision for the future by accumulations of savings or by insurance, and the taxpayer, have a distinct interest in the thrift of others. They want some assurance that the state will not take from them by force a portion of their savings or property for the support of the improvident. No insurance can be deemed satisfactory or successful which is not general in its application, viewed either from the standpoint of the individual or of society. There is contagion in thrift as well as in thriftlessness, and no system of insurance can be highly successful or

beneficent in its results which does not command the concurrence of all. The fatal weakness of every system which has ever been devised without the intervention of the state consists in its failure to reach those for whom it would be especially prescribed, those who constantly threaten to become a public charge or to pass a portion of their lives in extreme penury and wretchedness.

Some of the objections that are urged against government insurance have been anticipated. It is sometimes urged as an important objection that state insurance would injure or, if made exclusive, ruin existing companies. This arises from a misapprehension. Existing insurance companies or institutions do not exist for their own sake, but for the sake of the policy-holder. No policy-holder would suffer harm if no further policies should be issued. Perhaps he might even be benefitted because his accumulations could not be used—as they often have been—to secure new business. The solvent company can meet all its obligations to its policy-holder; beyond that he has no interest unless of a purely sentimental nature. It has been urged, even, that state insurance should be opposed because it would interfere with the employment of insurance solicitors. On one occasion, when the Canadian Government had the subject under serious consideration, it was indignantly asked: "Why should Government take the bread from the mouths of the people who are earning their living by life insurance?" This is quoted with approval as a strong argument against government insurance, but it is too puerile to waste time over. All of the legitimate work of insurance will remain to be done under any system. Whatever is beyond that is superfluous and simply parasitic. Society cannot be asked to support a body of men whose labors have no real efficiency and do not add to a desirable product. To state the question is to answer it.

If state insurance is desirable, should it be voluntary or compulsory? Compulsory insurance is sometimes denounced as though the proposition were exceptional in the consideration of proper functions of government. The word compul-

sion, as applied to legislation is an odious one. Why should the state invade the domain of the individual's choice and peremptorily decide how he shall meet his own responsibilities?

It is to be premised that there is no compulsion upon the willing. The law-abiding citizen is not conscious of any restraint under laws against disorder or crime; the thoughtful citizen does not resent the laws or regulations which require him to do that which they should cheerfully unite in doing for the common good. We are accustomed by the long practice of civilized nations to a great variety of laws which are made obligatory for the benefit of all. We have compulsory education, compulsory sanitary and quarantine regulations, compulsory requirements respecting the spread of noxious insects and plants, compulsory contributions for the support of the poor. These all rest lightly on the orderly and patriotic citizen; rather he looks upon the state as highly beneficent which secures to him all of the privileges which can be secured only by establishing uniformity of action by law for the general weal. He does not feel the tyranny of law, but realizes his ideals of liberty which can be gained only under law. He complies with laws in the consciousness that all of his neighbors, including the exceptional one who is unwilling, are doing the same in the interests of orderly government. He knows how impotent he would be alone or even with the unorganized concurrence of his fellows in gaining these results. We think of compulsion as a sort of tyranny, but it can only be the tyranny of a majority in a republic. This may be odious, but less so than the tyranny of a minority. A minority despicable in point of numbers, five per cent or two per cent of a community, may by mere inertia impose its will upon the majority as long as the will of the majority is not enacted into law. The state should not invoke compulsion for trivial reasons; but when large interests are involved, concerning the welfare of the greater portion of its inhabitants, and a desired end can be accomplished only through compulsion, it ought not to hesitate.

Is the insurance of workmen of such importance and urgency as to justify compulsion on the part of the state to secure it effectively? Such insurance cannot be made general in its application without compulsion. No form of persuasion could be effectively employed by the state which would not involve features far more objectionable than compulsion. As long as any scheme is entirely voluntary it will be evaded by the person and the class who most need insurance; the evasion of one would weaken those nearest him socially and the contagion of improvidence would spread to the thrifty. Any plan for state insurance, purely voluntary, would show in its operation the same defects which make all existing insurance institutions unsatisfactory. But it might be confidently expected, even if there had been no demonstration of the fact elsewhere, that compulsory insurance, when fully understood and appreciated, would result in the ready acquiescence of those concentrated, as has been the case of many other obligatory laws. Only the exceptional man would chafe under the compulsory feature. It would hardly be compulsory except in name. It is impracticable for the state in its legislation to consider the one man who is abnormal and must be forced to do that which the other ninety-nine do gladly. If he were to be heard we should have no public education worth the name. His inertia would always retard human progress.

It has been suggested that a system of compulsory insurance would and ought to incur the opposition of workmen. To some extent this was the attitude of German workmen twenty-five years ago towards the scheme of Bismarck, especially of those who were under the influence of the extreme socialists. The most plausible ground for such opposition is that it would tend to introduce a line of social demarcation. But this position will not bear scrutiny, either as a matter of sound theory or as an appeal to experience. Lines of social demarcation are most effectively established by conditions of industrial inequality between classes. As long as there is economic dependence, there must be a lack of mutuality in industrial relations; there will be a tendency

towards arrogance on one side, and undue humility, even servility, on the other. Whatever ministers to equality of opportunity tends to efface social distinctions. To secure the higher independence of the individual through social legislation is to make a stride towards genuine democracy.

The lack of mutuality is a productive cause of friction between classes. As might have been expected, the German system of insurance has contributed to a better feeling.

The workman, as well as the state to which he belongs, is deeply interested in his own efficiency, not only considered in the abstract but as related to the efficiency of competing nations. If a system of universal insurance by creating or intensifying solicitude for the life, the health, and the physical well-being of the workman thereby increases his industrial efficiency, it is a personal as well as a social economic gain, and gives assurance that he is not to be at a disadvantage in an industrial competition which is world-wide. "No one can doubt that the general well-being of the working classes in Germany, which is strikingly visible to the eye and confirmed by statistics in spite of many unfavorable circumstances, is in a large measure due to the insurance system."

Further proof of the beneficence of the German workmen's insurance is furnished in the fact that it today commands the almost universal acquiescence of workmen. There are criticisms, but they look for amendment, enlargement and improvement, not repeal.

North American Review. 195: 630-40. May, 1912.

Dangers of State Insurance. Hugh Hastings.

As a student for years of labor the writer recognizes the tendency of the times to compel the master by law to compensate an injured employee for loss of time and to pay an adequate sum to those dependent upon such employee whose death has been caused through accident, whether by negligence chargeable to his employer or not.

Until within a few years it has been an almost universal custom among employers to do what each one considered equitable in such cases, with preference shown to employees long in service over those of more recent date. In fact, each accident was adjudged by the employer according to surrounding conditions and to the individual idea of what was proper and just.

The comparatively small number of legal actions brought by injured employees against employers to recover damages, as shown by court records of twenty years ago, speaks well for the employer of those days. But times and methods have changed. Business enterprises have grown so vast that no longer the employer can maintain the personal relationship with all his employees that was practicable forty or even twenty years ago, nor can he by any possibility, because of the constant shifting requirements of business, find it feasible to undertake that direct personal interest in every man and woman that is injured in his employ. It was, therefore, eminently proper and right that the law should step in and define the relationship between master and servant. No fair-minded employer objects to a negligence law that is just to both parties. The employee naturally demands the law that contains provisions most favorable to his interests. The employer, however, must sedulously consider the law from another standpoint. It is he who must arrange that the burden of compensation or damage paid to employees for injuries sustained shall not exceed the profits of the business, but still leave a fair remuneration for either stockholder or individual whose money is invested.

From the moment the employer is inspired to investigate the subject in order to determine for himself what law, either past, present, or contemplated, is the best suited for his particular kind of employment and undertakes to absorb all the literature and bibliography accessible, he is hopelessly lost. He finds that to attempt to interpret the Sherman anti-trust law and to instruct the United States Supreme Court to define that simple document is child's play compared with trying to construct in his own mind a compensation

law that is equitable and fair and will give satisfaction to all parties concerned.

Let us take one look at what has already been accomplished in the way of law-making on this subject and examine the laws that the following countries are now enforcing, called in general terms beneficial laws for occupational injuries: England, France, Germany, Austria, Belgium, Denmark, Norway, Italy, Finland, Holland, Sweden, and New Zealand.

In the United States very recent legislation on the subject has been adopted in New York, New Jersey, Vermont, New Hampshire, Massachusetts, Ohio, Illinois, Wisconsin, Indiana, Kansas, and Washington. Between foreign countries and the enactments in our own states it is presumptive that every form of law may be found, good, bad, and indifferent, that the human mind is capable of framing, no two of them alike, each containing merit or demerit equally, each appealing one moment and repelling the next, until the task of separating the wheat from the chaff and formulating a law that will partially solve the problem seems almost hopeless. The best that can be done will hardly pass muster, but if with the material at hand an expedient can be arranged temporarily to bridge the gulf between employer and employee with a minimum of harm to both, until time has elapsed to perfect a completed experience over a five years' period basis, a long step toward solving this intricate problem will have been accomplished.

The laws governing compensation to injured employees in foreign countries may be separated into two classes; "simple compensation," the English form, and "compulsory insurance" either by state or mutual associations. Careful study and mature deliberation eliminate comment upon foreign laws with the exception of those in force in England, Germany, and Norway, which are considered by profound students as the best of their kind in force.

More has been written of the German method than that of any other country, and it is the general impression of employers of labor and of thorough students of this subject

that the German method has proved an unqualified success and would work equally well if transplanted to our shores. But a literal analysis of that law and exhaustive study of the statistics prepared by the Government by no means justify the contention of its success in or adaptability for this country. The main objection to the system is based upon the fact that it is compulsory insurance in mutual associations composed of all the employers in any given line of trade and vested with power to regulate and control their members. Through this system of control it is possible in Germany to make a flat rate of premium applicable to all employers in any given line of trade, for it must not be forgotten that this compulsory insurance serves two objects: first, to prevent accidents, and, second, to compensate for accidents that are inevitable.

The control of manufacturing plants by trade associations has brought about a high level of safety in all establishments. But while trade regulations and the laws providing safety for employees are rigidly enforced, fines were imposed and collected by trades associations in 1908 amounting to 412,608.51 marks to compel delinquent members to perform their legal duties. In spite of this regulation and inspection, the statistical details prepared by Actuary Miles M. Dawson show that between 1886 and 1908 it was found necessary to raise the rates of premium in certain cases five hundred per cent. over the rate for 1886. And the end is not yet, according to the testimony of Actuary Dawson before the Congressional Employers' Liability and Workmen's Compensation Commission. It is quite likely, Mr. Dawson declares, rates would continue to be increased for a period of fifty years from 1886, when the law first went into effect, before a level would be established. In other words, a new enterprise started in Germany during the year 1911 would be forced to pay its pro rata share in the class to which it belonged for all accidents happening between 1886 and 1912 that remained to be adjusted or upon which payments are still to be made over a period of years for those dependent on employees killed in service and those

totally incapacitated who are pensioners of this fund until death. As an example of increase in rates: the rate on machine and repair shops was thirty-two cents per $100 of pay-roll in 1886 and $1.69 per $100 of pay-roll in 1908. Steel castings from forty cents to $2.03, and blast-furnaces from forty cents to $2.64, and so on through the list. We must also bear in mind that these rates only provide for serious accidents, as minor accidents, when loss of time does not exceed thirteen weeks, are taken care of from a sick fund.

In this country there are no trade associations that possess the power to enforce safety regulations throughout any given trade, nor to my knowledge is there any state in the Union where the laws that provide safety appliances for workmen are rigidly enforced, for the reason that the state has failed to provide the machinery to enforce its laws. Admitting that this is so, the baneful hand of the politician would soon appear in evidence for the comfort and profit of the man with a pull who would be relieved of the responsibility that would be imposed upon the man without a pull. A flat rate of premium through any given line of industry could only result in monetary punishment to the well-ordered establishment and a bonus allowed to the run-down, obsolete, and badly managed establishment. No less an authority than Privy-Councilor Ferdinand Friedensburg, late president of the senate of the German Imperial Insurance Office that enforces the law, declares the system is a "costly, inefficient, and demoralizing failure."

Another grave defect in the law is that no provision is made by the Trades Association for taking from the insured a pension obtained fraudulently or unjustly granted, although a rehearing is conceded when the claimant becomes dissatisfied. In consequence, such rehearings are increasing and frequently result in an inflated pension.

A system of insurance regulated not only by the government, but by the trades themselves, that has proved a hotbed of corruption, malingering, and fraud requiring a tremendous and expensive organization to handle, involving an increase in rates in some instances of five hundred per

cent. in twenty years, would not, from the standpoint of an American manufacturer, be considered a success or meet with the endorsement of either workmen or employers. Therefore, the German system should be dismissed without further consideration.

Let us now consider briefly compulsory state insurance as illustrated by Norway and the state of Washington in the United States, the latter operating under a law largely copied from that of Norway.

It is generally conceded that the management of the Norwegian Insurance Office is exceptionally good and that the experience under the Norwegian system, so far as known, has been generally favorable. It must be borne in mind, however, that the conditions in Norway may justify a trial of state insurance because of the peculiar advantages offered. Only a small percentage of Norway's two million two hundred thousand persons are engaged in industries covered by this insurance, and most of these are of the same nationality, while the changes of employees in the different establishments represent a very small percentage of the number employed.

Unrest and dissatisfaction with conditions of employment result not only in accidents, but in strikes. But no more remarkable illustration of the Norwegian's apparent contentment and satisfaction can be cited than the strike of the iron and metal workers in 1903, the greatest labor conflict on record till 1910, and yet this strike involved only 1,052 employees. Politics appear to have little or no influence over the conduct of the Insurance Office. Even with these ideal conditions surrounding this scheme of insurance and under efficient, capable, and experienced management, with rates approximately the same as those charged in England, a few years' experience has shown that they had not reserved sufficiently to cover accrued liabilities and were obliged to make good a deficiency of $100,000 that had to be paid as a general tax upon the government. If New York state were operating under the laws of Norway this deficiency would have been not $100,000, but several millions

of dollars, owing to the greater population and the increased number of employees insured, and this additional burden of several millions of dollars would have to be paid by a direct tax upon the state of New York as a whole.

In order to be successful, compulsory state insurance must be a monopoly—that is, all insurance of this nature must be transacted through one source. The state of Washington has cleverly recognized this feature, and consequently monopolizes workmen's compensation insurance to itself. The authors of the Washington law delight to call it compensation, but it is far from that. Because of its meager benefits it appears more in the light of an amplified poor law with its object to prevent absolute pauperism. It is impossible to believe the labor unions of the state of Washington approved this law, unless they contemplated to enlist political influence in order to magnify the benefits. As a matter of fact, it is unfair to consider the Washington law as a compensation law. The law fails to provide for accruing liabilities, for the proper machinery to enforce it, or for a prompt and efficient means of compelling a recalcitrant employer to insure his men. The method of establishing rates is crude in the extreme, and their method of apportioning the pay-roll through a given class at a flat rate is still worse.

The absurdity of the whole scheme is exemplified by the statement of Mr. George A. Lee, Chairman of the Industrial Commission of the state of Washington, relative to the claims for the death of eight girls in a powder-mill explosion at Chehalis, Washington. Chairman Lee states that the amount of claims for these eight girls must, under the law, be paid by assessment levied on the powder manufacturers of the state. It seems there are but three powder manufacturers in Washington. Of these, two paid the assessment levied upon them by the Insurance Commission in accordance with their estimated pay-roll and turned over to the state the sum of $270 as their insurance premium for one year. The third manufacturer refused to pay, maintaining that the rate charged was excessive and that the conditions

safeguarding his plant were so far superior that it was unfair to assess him the same rate charged against the other two. The maximum amount which should be collected from the state for this accident, according to law, is $32,000, but the Attorney-General has raised the question that the law does not require the payment of $4,000 for the death of a minor, and it is now for the Attorney-General to prove, if he can, the economic value of a minor as compared with an adult. Before the law had been in effect sixty days the Washington State Insurance Commission found itself face to face with the extraordinary problem of paying a maximum loss of $32,000 out of the sum of $270 on hand. Litigation between the Insurance Commission and the Attorney-General, with the sum of $270 premiums already collected to draw upon, will doubtless ensue to determine the economic value of a child. A careful perusal of the published rates for this insurance, with the grouping of trades without any relation one to the other into classes subject to a flat rate of premium, discloses such a lack of knowledge of the difficulties, embarrassment, and expense necessary to operate a law of this kind as to make the system open to ridicule.

Until the litigation is settled and the damages resulting from the Chehalis explosion are paid the state of Washington certainly can offer no attractions to capital desirous of settling within its boundaries, with the prospect of contributing pro rata into the insurance fund for payment of claims arising out of a powder-mill explosion before it entered the state to transact business. In view of all these facts, it would seem as if it were only a question of time when the state of Washington's insurance law must be radically amended or abandoned.

Germany complains that in the last year 800,000 marks were taken to Italy by injured Italian workmen, never to return, and that German workmen injured in Italy brought back to the Fatherland only what was left of themselves to become an added burden to the state. How would the German law work out in the United States regarding Italians? Not marks, but dollars—not marks by the thousand, but

dollars by the million—in exchange for toes, arms, legs, and eyes—to pension the transient Italian workman at the expense of the federal or state governments?

The English law or Simple Compensation, which, according to Mr. Hugh H. Lusk, former Premier of New Zealand, was taken almost bodily from the New Zealand statute after it had been in force in that country for five years, must next be considered.

With the changes and additions required to meet constitutional questions the English law is more adaptable to industrial conditions in the United States than any other law now in effect.

Actuary Dawson, who unquestionably has spent more time boring into the question of the various kinds of workmen's compensation laws, with more or less prejudice assails the English law because it was started on what he calls a maximum rate rather than a minimum rate as was the law of Germany. No one will question Germany's credit for starting at a minimum rate. Even Actuary Dawson acknowledges that after a quarter of a century the German rates have not yet reached a maximum. Employers in England generally carry their workmen's compensation insurance in stock insurance companies, and while Mr. Dawson's remarks would give the impression that the insurance companies have bled the poor, trusting English manufacturer to the last drop of his financial blood, and that the companies had feasted and grown plethoric with the great excess of financial blood unnecessarily squeezed from the innocent employer, insurance statistics and the record of companies forced into the hands of receivers, on account of underestimating the premiums required to carry the hazard of workmen's compensation, utterly fail to bear out the impressions of Mr. Dawson. He decries the great evil of commuting the amount to become due to permanently injured employees, on the ground that the payment of a lump sum rather than payment at stated intervals over a protracted period of time quickly results in the beneficiary soon squandering or badly investing his money to find himself in a

short time in a position of absolute pauperism instead of maintaining an income, no matter how small, that is permanent. Such a result is, of course, unfortunate, but the law that allows commutation has nothing to do with it, for annuities can be purchased and the courts that allow commutation can easily direct a way in which the lump sum should be protected. Prodigals have existed certainly since Biblical times, and no law has yet been devised by man, civil or criminal, that could absolutely obliterate prodigality.

The employer's side to this question of commutation is overlooked by Mr. Dawson; the obligation that compels all business men to conduct their affairs upon the basis of giving and taking credit, and with a large number of small manufacturers good credit is their principal asset. It is not only quite possible, but quite probable, that in the course of a few years an employer might be overwhelmed with a number of uncommuted indeterminate claims from injured employees as seriously to imperil his credit with an unknown liability existing that certainly would be remorselessly scrutinized at his bank when application was made for the necessary credit and funds to continue his business operations. Therefore, as a business necessity and for personal protection, it is obligatory upon the employer to clear his books and settle his accounts with injured employees at the earliest possible moment.

Speaking of the German law, the same authority asserts that the physical condition of the German workmen has been immensely improved by the operations of the workmen's compensation law, that the Germans have grown taller and stronger during the period in which this law has been in effect, and that during the same period the English have grown shorter and weaker. Is it possible that Mr. Dawson has not been informed of the improved physical condition of the German male through enforced military service?

It is also claimed by several writers that the German compensation system has brought with it peace and contentment in industrial conditions as against unrest in Eng-

land, but as there were in 1907, 2,266 strikes in Germany affecting 13,092 establishments and 445,165 employees, as against 601 strikes and 100,728 strikers and locked-out employees in England for the same year, this claim cannot be allowed.

For the state of New York or any other state in the United States the only law that seems applicable for the moment is one of simple compensation as a substitute for all other remedies except the common-law right to recover, through the civil courts, just damages for the consequences of wilful and unpardonable negligence. To make this law a compulsory one is as repugnant to the idea of the free-born American citizen as federal ownership of the railroads; therefore, while this law should be compulsory in effect, it should be elective in fact, and each employer, while required to insure, should be given the choice of doing it in the way most adaptable to his surroundings. He should be allowed to insure in either a stock or mutual insurance company duly qualified by the State Insurance Department to do business in his state, or to put into effect within his own organization a workmen's compensation plan that should be not less beneficial to injured claimants than the law provides, or he should be allowed to carry his own insurance if he so elects. The law, however, should provide that, if an employer should elect either of the two last-mentioned plans, he be compelled to furnish either to the Insurance Department of his state or to some other department or designated officer of the state a bond sufficient in amount to cover the obligations imposed upon him by law as regards injured employees.

It has become a habit apparently of those writing about the rates charged for employers' liability and workmen's compensation insurance by stock companies to denounce the companies from start to finish and to hold them up before the public for not only robbing the employer on rates charged, but for cheating the injured workmen out of their just dues by every known means, driving him through intricate tangles of litigation until he is willing to accept little

or nothing for his release. Even Professor Henry R. Seager, of Columbia University, according to the daily press, stated at a recent lecture "that under the present system there is a lot of unnecessary litigation and that fifty per cent. of the money received is expended by the employers' liability companies in efforts to keep from paying claims." Professor Seager is correct in stating that there is an unnecessary amount of litigation, but so long as shyster lawyers and ambulance-chasers are allowed to charge fifty per cent. of the amount of every recovery made through such litigation for their fee, just so long will it continue. One of the salient points of the report to Congress by the Committee on Employers' Liability and Workmen's Compensation reads as follows: "Of the $10,000,000 annually paid by the railroads of the country presumably to workmen and their beneficiaries in death and injury claims, $5,000,000, or one-half, has been stolen by personal-injury lawyers." Professor Seager's statement that the companies spend fifty per cent. of their money to resist just payments is not borne out by the facts. Superintendent Hotchkiss of the Insurance Department of the State of New York states that, while the liability companies have made no money in the past three or four years, they have been guilty of unnecessary expense owing to the severe competition for business among themselves; that it is quite doubtful if the present Reserve Law of fifty per cent. of the premiums is sufficient, as the Insurance Department figures show that the loss ratio on completed experience is nearly, if not quite, sixty per cent. of the amount of the premiums, and he further calls attention to the extravagant rate of commission paid to those who bring the business to the companies' counters. From an absolutely authentic source the writer can vouch for the statement that the fifty per cent. referred to by Professor Seager is made up approximately as follows: ten per cent. legal expenses, ten per cent. home and branch office expenses, five per cent. pay-roll audit and inspection departments, and the balance of twenty-five per cent. to brokers placing the business.

With a workmen's compensation law restricting the fees of attorneys, thus cutting out seventy-five per cent. of the litigation, every one of the above mentioned percentages should be scaled down materially by the liability companies themselves. Legal, home office, and miscellaneous expenses should be cut seven and one-half per cent., and with every employer carrying workmen's compensation insurance in one form or another twelve and one-half per cent. commission is fully enough to pay to brokers or agents placing the business. This twenty per cent. saving can well be used by the employer to help him to carry the additional burden of workmen's compensation insurance that provides for weekly payments whether the employer is guilty of negligence or not.

Annals of the American Academy. 38: 151-8. July, 1911.

Compensation Law and Private Justice.

P. Tecumseh Sherman.

In the states of the civilized world there are two systems of employers' liability for accidental injuries. The first, which formerly prevailed in all, but which now survives only in the United States and, in a transition stage, in Switzerland is that of tort, or more particularly the master and servant branch of the law of negligence. The second is that of "compensation," which embraces both "simple compensation" and also its more complex form of "compulsory insurance"—for "compulsory insurance," where and in so far as it is at the expense of employers, is in effect simply a liability to pay compensation for accidental injuries to employees, with a legal obligation added to insure its payment.

The majority of the advocates of "compensation" base their arguments entirely upon reasons of social welfare. Under that line of argument, in order to sustain a compensation law under our constitutions, it is necessary to rely exclusively upon the "police power"—a power possessed by the state which permits it to inflict individual hardship and injustice

where necessary for the public welfare. But the law should seek, wherever possible, to effect private justice; and the case for "compensation" would be infinitely strengthened and the probability of repetitions of the reverse suffered in the recent decision of the New York Court of Appeals would be diminished if it can be demonstrated that the liability, as between master and servant, which the compensation law imposes, is just. In my opinion that liability is just, not absolutely, just in theory, because it abandons the unattainable ideal of affecting exact justice in each particular case, but as just as is possible in practice and relatively most just in comparison with the existing liability for negligence. In this paper I shall endeavor to explain my reasons for that opinion; but in order to be brief and for that purpose to avoid complexities from varying conditions I will limit my arguments to those which apply with full force only to employment in the more hazardous organized industries, to which, in my judgment, our first experiments in the law of compensation should be limited in their application.

In my opinion the two systems of employers' liability law are not totally different in their fundamental principles of private right, but the principles of the compensation law are developments from the principles of the negligence law, corrected to conform to the lessons of experience and to modern scientific knowledge and modified with a view to concrete as distinguished from abstract justice. While the foreign compensation laws are all shaped in many of their details, and in some cases in their entire forms, with a view solely to the general social welfare, nevertheless as a system it will be found that the principles of private justice underlie them all. If this view is sound and if those principles of private justice become generally accepted here, then the substitution of the liability for compensation in the place of the existing liability for negligence would be in accord with, instead of being a departure from, the spirit of our common law and of the principles of the Bill of Rights in our constitutions.

The compensation law, as a rule of private justice, differs

from the law of negligence in principle in that it changes the rules of "contributory negligence," of "assumption of risks" and of "fellow servant," the criterion of "negligence" and the rules governing the burden of proof—and in that it fixes a definite and limited measure of the amount of the liability.

Our rule of "contributory negligence" is peculiar to the common law, and there are now few who believe in its justice. But although the rule may be unjust, yet simply to abolish it and to make the employer liable for full damages, as if there had been no contributory negligence, would be equally unjust, because that would merely shift the injustice from the workman to the employer. The proper correction is to divide the damages. That is what the Admiralty and the civil laws have always done, and what the compensation law in effect does.

The justice of the "assumption of risks" rule is predicated upon the premises that workmen are free to assume or reject hazardous employmnt, and, consequently, that when they accept such employment, they should be deemed to contract freely to assume its risks; and that wages in hazardous employments are higher in proportion to the hazard so as to compensate for such risks. But facts demonstrate that working people in the mass are not economically free to accept or reject hazardous employment, and that wages are not at all in proportion to risks. Therefore, the premises upon which the rule of assumption of risks is based are generally false, and the rule itself is not a true rule of justice. But if justice requires the abandonment of the assumption of risks rule, its corollary, the fellow servant rule, should also be abandoned; for danger from the faults of intimately associated fellow servants is one of the occupational risks, *all* of which, as a general rule, a workman either should or should not be deemed to assume. And so far as the fellow servant rule is supported by reasons of public policy, it has no true application to the organized industries, wherein the individual workman cannot, by any degree of care, protect himself from the faults of his fellows.

But here again the proper correction is not simply to

abolish the defences of "assumption of risks" and of "fellow servant" so as to leave the employer liable for full damages, for that would merely shift the injustice and make the employer liable for a wrong, where he has been guilty of no wrong. The compensation law solves this problem of justice by treating all the necessary risks of employment as joint risks, of which the consequences should be shared between the employer and his injured workmen; and it accordingly imposes upon the employer a legal liability, similar to that of an insurer, to pay to his injured workmen, or their dependents, his share (generally one-half) of their wage losses resulting from such risks. This conception of a joint occupational risk, of a mutual responsibility for accidents from occupational risks, of a moral partnership in the resulting losses, is the great basis of the compensation liability. As a conception of justice it is primary and must either be accepted as an axiom or be rejected. But the idea of its justice is fortified by the fact that as a rule of public policy it has practical merits and advantages above all others. It, therefore, appears to be the best rule for the social welfare and, at the same time conforms to a widely accepted idea of justice.

The next point of difference between the two systems of law is the criterion which determines when, on the one side, the employer shall be subjected to liability for full damages, and when, on the other side, the injured workman shall be deprived of the right of any redress. Under our master and servant law that criterion is "negligence as a proximate cause"—a criterion which in practical application is so indefinite and uncertain in meaning as to be most unsuitable for that purpose, as is evidenced by the thousands of litigated cases to which its definition has given rise. It has the further demerit of being scientifically superficial. Under the compensation law that criterion is "moral fault," variously defined, but always so defined and limited as to include only such a degree of certain moral fault as justifies, beyond doubt or reasonable difference of opinion, the infliction of a penalty upon the defaulting party. From the application of

this latter criterion it results that that large proportion of accidents, which are due proximately to lack of ability, misjudgment, lack of skill, ignorance, physical or mental lassitude, mere inadvertence or that kind or degree of negligence which, humanly speaking, is at times inevitable even with careful men, and which, under our negligence law, result in a mass of litigation and entirely fortuitous determinations, are, under a compensation law, not attributed to fault but rather to the necessary risks of employment; and, consequently, for injuries resulting therefrom the employer is made liable to pay his share of the injured workmen's wage losses in the form of compensation.

The next difference between the laws of "negligence" and of "compensation" is that under the compensation law there is a presumption of fact that every accident results from a necessary risk of the employment or from some cause or causes for which employer and injured employee are jointly responsible, and is, therefore, a subject of compensation, unless fault is proved; and the burden of proving fault is upon the party asserting it. Is that presumption just? My answer to that question is that an intensive study of the causes of accidents in New York factories and a critical analysis of the European accident statistics convinces me beyond all doubt that, at least under conditions which prevail in the organized and hazardous industries, that presumption is true, and therefore just.

The final difference between the two laws is that under the compensation law the amount of compensation is measured by the law instead of by the almost ultimate discretion of the jury, and is made dependent upon certain definite facts, which are generally easily and certainly provable. Whether this method of fixing the amount of the liability is just or not should be determined by its results. The object of the law is to do justice. It should, therefore, be framed to effect average concrete justice, rather than to declare abstract rules of exact justice which cannot be carried out in practice; and this rule of the compensation law has these qualities of concrete justice, which are entirely

lacking in the negligence law, that it is generally prompt, certain and uniform in its operation.

Finally, the compensation law possesses that highest attribute of a just law, that it satisfies the natural sense of justice of the parties affected by its application; for it is the general testimony of both employers and employees in the majority of the compensation law countries that the law in the main is just and satisfactory.

In contrast with the compensation law, our negligence law gives universal dissatisfaction. Not only is it in many respects absolutely unjust, but even so far as its theories are just it fails to carry out those theories in practice, but results instead in a medley of cruel wrong, oppressive waste and delayed or compromised justice. Moveover, its theories are such that they cannot be carried out in practice, because that would require an impossibility, namely: that accidents be correctly traced to their respective causes and the responsibility for those causes correctly weighed and determined by judges and juries. Abroad, even experts, making many of their investigations on the spot and unhampered by the motives for concealment which prevail here, cannot with any certainty determine the true causes of and responsibility for a large proportion of the accidents which they investigate, and, as to the mass of industrial accidents, can only arrive at rough opinion estimates of average causes and responsibilities. It is obvious that judges and juries, especially under our methods of procedure, are infinitely less able to arrive at that exact determination of the causes of and responsibility for each accident which a correct application of our law requires. Therefore our law, even in so far as it is good in theory, is absurdly bad in practice.

The fault lies not so much with the machinery of our courts as with the law itself. For the law starts from an unfair basis, by imposing the burden of proof entirely upon the injured workmen, and thereby insures injustice to them where, as happens, in a large proportion of cases, from the very nature of the accidents, there can be no real proof. And, where there is a scintilla of proof, our law is wrong,

not so much in making jurors judges of the facts, as in making them judges of a broad field of inferences from distorted versions of a part of the facts, without scientific rule or reason to guide them. The result not only is, but must be a pure gamble, more expensive, wasteful, distressing and corrupting than any form of gambling prohibited by the penal law.

In my opinion it is altogether a mistake to seek to remedy the existing evils along the lines of our "employers' liability" statutes. Those laws are in too many respects grossly unjust to employers, increase litigation, are expensive and wasteful, are slow and uncertain in results, and furnish small additional relief to the victims of industrial accidents in the mass. And they have a disastrous effect upon the public welfare, for they foster class antagonism between employers and employees, and they interfere with proper methods for the prevention of accidents by establishing through the decisions of our courts harmful rules and precedents on questions affecting safety.

An illustration of this last proposition may be enlightening. We have in our New York Labor Law a provision that certain machinery shall be "properly guarded." The factory inspectors, in their enforcement of that law, construe that provision to mean that such machinery must be so arranged, placed, boxed, railed off, or provided with safety appliances as to be made as safe as practicable. But our courts construe it more literally to mean that such machinery must have applied to or about it something extra as and for a guard, without particular regard to whether or not that will make the machinery more safe or more dangerous. Of course, the courts have not categorically said that, but that is the effect of what they have decided. There are many cases in New York where juries have awarded and our higher courts have sustained verdicts for punitive damages against employers for not guarding their machinery in a way which, according to the overwhelming preponderance of expert opinion, would make it more dangerous. Such decisions are the opposite of or conducive to the general adoption of cor-

rect methods for the prevention of accidents. And this is but one of many points about which the reasonings and decisions of our courts on questions affecting safety are as foreign to scientific truth as are the ideas of an Indian medicine man about the causes and prevention of disease. It is a principal merit of the compensation law that under it questions of industrial safety would cease almost altogether to be a subject for judicial determination, and that the intelligence and efforts of employers would then be directed towards the prevention of accidents instead of towards the maintenance of arbitrary conditions and practices which will merely prevent liability for accidents.

While it is not demonstrable that the compensation laws have effected any reduction in the proportion of accidents, because there is not the requisite data for purposes of comparison; yet it is certain that the imposition of the compensation liability in lieu of all others (save in exceptional cases), would remove many difficulties in the way of studying the causes of accidents and the methods of their prevention, and would aid in the enforcement of safety regulations and be conducive to their voluntary adoption. And it is equally certain that our law has just the opposite effect, because it gives rise to an impellent motive for both the employer and the workman who is injured in an accident to suppress or falsify all the facts relative to that accident which might adversely affect their respective legal rights or liabilities. Consequently, in our country, this subject is to a degree hidden from expert investigation by a fog of suppression, misrepresentation and positive falsehood.

In conclusion I wish to emphasize three propositions, namely: that in the highly organized and hazardous industries the real causes of accidents are generally so complex and in addition often so remote, that as to a material proportion of the accidents it is impossible, by any methods or means, correctly to ascertain the facts necessary to form a correct judgment of their particular causes; that as to a yet larger proportion it is practically impossible to do so without such expense and delay as will defeat justice; and that

as to those accidents, as to which the necessary facts are practicably ascertainable, there is no simple abstract term, such as "negligence," "carelessness," "fault," "gross negligence," etc., which, if used as a criterion of legal liability, will not result in frequent and gross injustice and inequality, whether administered and applied by courts and juries or by more competent experts. At first impression the exactness with which industrial accidents are classified in the German and Austrian statistical tables, under the headings of "due to fault," "unavoidable," "due to lack of skill and carelessness," etc., may seem to contradict these propositions. But in so far as those tables produce that impression they are misleading; for as to a major proportion of the accidents classified therein, the facts have not been thoroughly investigated, but rough statements have been relied on, and there is therefore in them a wide margin of probable error, due to that one cause; and the terms used in those tables are so far from being definite and are employed in each table with a meaning so uncertain in application and so peculiarly personal to its compilers that a re-classification of the accidents covered by that table, under the same terms, by a different set of experts, would inevitably produce widely different results. The conclusion to be drawn from these premises is, that the idea of ascertaining the facts as to each particular industrial accident and then determining liability according to the application to those facts of some simple abstract rule cannot be carried out in practice; but that, in order to obtain a rule of law which will be at all fair and uniform in practice, it is absolutely necessary to resort to the doctrine of averages. That is what the compensation law does by presuming in effect, save in exceptional cases where the contrary is proved, that every accident is due to a necessary risk of employment or to some other cause or causes for which employer and injured employee are jointly responsible; and it divides the damages accordingly.

In arguing for the justice of a compensation liability in the organized hazardous employments, I am not arguing against its justice in the unorganized or safer employments,

because I believe that, with some important exceptions and subject to certain conditions, it would also, in practice, be more just therein than the existing liability for negligence. And I am not arguing that reasons of justice alone should determine the form which a compensation law should take; for I believe that reasons of social welfare and many other reasons should in many respects determine both the form and the extension of such a law. But I insist that such a law as that of master and servant should be based upon conceptions of private justice; and that the compensation laws are so based, and are not unprincipled measures of mere political expediency.

Annals of the American Academy. 38: 159-65. July, 1911.

Argument Against Liability. Walter S. Nichols.

To me there is a graver issue involved in the enactment of liability laws in this country than the mere compensation of an injured employee. Our recent conceptions of an employers' liability are of foreign birth, the outgrowth of socialistic theories, which for years have been gradually permeating the states of Europe. There are two phases of this question which do not seem to be receiving the consideration which they deserve. I hold that under the spirit, if not the letter of our constitution, no ordinary employer of labor can justly be made liable for an injury for which he was not actually or constructively at fault, and that every attempt to impose such a liability is an attack on the manhood of employees as American citizens. Subject to the legitimate police power of the state, every American freeman has the constitutional right to contract for his services. Under all ordinary circumstances, this contract assumes that he is capable and willing to perform the work which he undertakes. Such service in free America, at least, is not different in its fundamental character from other business contracts; it is simply an exchange of personal labor for money compensation. Both parties are independent con-

tractors. There is no more reason in the nature of things why a freeman who contracts for his manual labor should impose on the party with whom he contracts responsibility for injuries which are due to no fault of the latter than why a like responsibility should not attach to other forms of contract. As well might the architect or the builder who contracts for the erection of a dwelling allege the same responsibility. The fact that the ordinary servant is under a stricter and more detailed control goes no further than to enlarge the duty of the employer to see that his own acts are free from blame.

The only ground on which such legal responsibility can be claimed is the exercise of the police power of the state based on public policy. Is there any public policy which would sustain such police power in the case of ordinary employments? Here, a false theory seems to have been universally accepted. It is assumed that employees would escape injury except for the special work in which they may be employed; that the responsibility for the injury attaches to the particular work being done. On the contrary, it may well be questioned whether in the ordinary occupations of life the risk of accident is not even less among those actively engaged in the service of others than if not so engaged. The employee is not a mere piece of mechanism, carefully housed and sheltered from danger except when actively in service. He is a man and a member of society, with all the obligations imposed on him by such membership. First and foremost of these obligations is that he shall do his legitimate share of the world's work. To earn his bread by the sweat of his brow is the law of nature imposed on man in his very evolution from a lower vertebrate. It is a law whose principle lies at the very foundation of all life, even that of the lowest monera or of the vegetable cell. Conscious or unconscious activity is the very essence of life. The evolution of society has simply moulded the lines along which this activity must be directed. It has simply organized the members into a social system under which their labor is differentiated and its fruits exchanged instead of, as among their sav-

age ancestors, every man working for himself. We have simply exchanged slavery to untamed nature for a lesser servitude to society at large. Whether employed in the service of another or not, every man is exposed to the risk of accidental injury. There is nothing in all this which suggests a natural claim of one member against another for injuries due to his own fault or misfortune. On the contrary, the whole development of society has been along the line of protection to the worker. It is as true to-day as it was a thousand years ago that in the ordinary occupations of life the worker is in reality in a measure safeguarded through his very employment. Not until now has the truth of this great principle been seriously questioned. From the buried cities of Mesopotamia are unearthed the records of contracts made six thousand years ago, and in the laws of the Roman Empire, we may read the story of their transmission in spirit to the nations of modern Europe and to America. But nowhere heretofore, so far as I know, has the right and ability of a freeman to assume the risk of his employment been questioned.

What are the grounds of that public policy which it is claimed has changed the nature of this contract relation that has existed from time immemorial? We are told they are to be found in the complex conditions of modern industrial life, under which the employee is subject to risks more hazardous than ever before, and to that greater economic differentiation which has widened the gulf between the workman and his employer, which has weakened the personal relations once existing between the two, and has reduced the former to little more than a machine to be exploited under a new system of employment, representing not men but soulless corporations; that giant monopolies of capital have practically reduced the workmen to a condition of industrial servitude. For these reasons, it is urged that public policy calls for the intervention of the police power of the state to compel either the individual employer or the state itself to assume that responsibility for injuries to the workers which they themselves formerly bore.

Whatever may be said for this argument under the monarchical systems of the old world, it fails in its application here, unless our whole theory of government is to be abandoned for another on essentially socialistic lines. The broadest liberty of the individual consistent with his obligations to society was a corner-stone, on which our whole national fabric was reared, and closely allied to it was another, protection of individual property rights against aggression even by the state. When Webster won that immortal decision concerning the sacred rights of property and of contract in the Dartmouth College case, which has ever since been the law of the land, he welded a construction into state and federal constitutions only less important than that involved in the conclusion of his famous debate with Hayne, a construction which has cost the best blood of the land to maintain "the Union now and forever, one and inseparable." Under our constitution, as it now stands, no plea of police power can well divest an employer of his property on the ground that he is liable for an injury where he was without fault. The application of this principle has been sought to be avoided by using the police power of the state to abridge the right of contract and compel the employer to incorporate the tacit assumption of a liability for injuries in his agreements with his workmen. How far the police power of a state may thus abridge the right of contract yet remains to be seen. In right reason, it would seem that no such power should exist in ordinary contracts of employment in which, as already explained, the hazards of occupation are not essentially different from those of ordinary life. The workman here is asked to assume no increase of risk which can fairly be charged against the property of his employer, or be made a basis for public compensation, unless socialism is to be substituted for individualism in the spirit of our constitution. To employ and to be employed is a fundamental right of every citizen of the Republic, the very essence of our economic existence, even more—of our very civilization. No police power can properly abridge it more than the public welfare absolutely demands. It may well be doubted

whether any plea of public policy can impose on every man who ventures to contract for the service of another an unknown liability for injuries due to the fault or misfortune of the latter with all its attendant train of fraud and blackmail, and it may be at the risk of his own financial ruin. No policy would seem more destructive to the actual welfare of the state. While in the case of certain corporate carriers, creatures of the state and impressed with duties to the public, such police power has been at times sustained, the Court of Appeals of New York in its recent decision has, by a unanimous vote, emphasized the principle that no public policy can be invoked to sustain a law which thus divests an employer of his property without his own fault, even though his liability may be limited to exceptionally dangerous risks. Our neighboring state of New Jersey in attempting to evade this decision by depriving the employer of his present protection by the court in case of his refusal to accept an unconstitutional law, strongly suggests an attempt to whip the devil round the stump. The defenses which it would deny him are grounded not on mere expediency, but are rooted in those principles of natural justice which underlie our economic system and have been well established in all our jurisprudence.

As a dictum unnecessary for the decision of the case, the New York Court of Appeals has declared that both the fellow servant and the contributory negligence clause as defenses are within the scope of legislative control. But it as strongly affirms that neither can be so modified as to impute to the employer a fault due to the employee. Both these clauses relate to the legal cause of the accident. The question of responsibility depends on this legal cause. Whether a fellow servant or an assumed negligence of the employee is in the legal sense the efficient cause or a mere link in the chain of casualty, which no court will consider, must still remain, it would seem, a valid question of law regardless of such enactments as that of New Jersey. The act or neglect of the employer must still be the efficient cause of the injury in order to constitutionally impose on him the liability.

But gravest, perhaps, of all objections is the effect of such legislation both on the working men themselves and on the commonwealth at large. By such laws those who contract for their personal services are placed in a class by themselves politically subordinate to the rest of their fellows. They are no longer to be dealt with as freeborn citizens competent like others to care for their own affairs, and capable like others of engaging in all the activities of business life unfettered by political restraints. To them the words of the great declaration promulgated in this city a hundred and thirty-five years ago that all men are born free and equal and entitled to life, liberty and the pursuit of happiness must have a changed meaning. They are to be dealt with as incompetent wards of the state who must be protected against themselves, incapable of freely contracting for their services and subject like the medieval serfs to assumed taskmasters, who must answer for their safety and be responsible for their mishaps. Is that to be the future spirit of our constitution and of our economic system? Is it the spirit of Americanism under which our country has achieved its greatness? The employee of yesterday will be the employer of to-morrow. Our future captains of industry will be recruited not from the ranks of wealth, but from the descendants of the horny-handed sons of toil. Politically, America knows no servile class. Is all this to be changed and a spirit of state socialism to be inculcated in our rising generation through the operation of laws which make the employer the keeper of those whom he employs? To-day one of the gravest financial problems which confronts our local systems of rapid transit is the damage suit for real or alleged injuries to those in transit. Fraud and blackmail play a leading part. In New York, the passage of the recent Employers' Liability Law was the signal for a heavy increase in the claim ratios of the insurers. From England, and even Germany, come the same story of the weakening of the moral fibre of the classes whom such laws aim to protect.

We are treading on dangerous ground in seeking to follow the footsteps of Europe regarding employers' liability.

We are in danger of sacrificing the nation's birthright; the independent manhood and political equality of the individual citizen won by the founders of the Republic through the sufferings at Morristown and Valley Forge. Can the American people afford to surrender it for any gains that may come through the better protection of the working classes against the risks attendant on our complex industrial conditions? Is it not better that another solution of this grave industrial problem be sought? To me the true solution lies along the line of insurance, not compulsory but voluntary, on the part of the workman himself as an intelligent self-respecting citizen to whom has been committed his full share in the government of his country. Aided and encouraged he may well be by any legislation which will not sacrifice his manhood or violate the constitutional rights of his fellow members of society. It is right that he should be protected and he should be educated to it as to every other civic duty. It is right that the cost of his protection should be an element of his compensation for his labor. But I believe that in doing so no jot or tittle of the spirit of the American Constitution should be surrendered. Not long ago, the business activity of all France was suddenly checked by a gigantic strike of employees to ameliorate their social conditions. The hand of the government itself was threatened with paralysis. It was successfully met and its backbone was broken by a call to the colors. The strikers were called on to choose between their obligations to their country and the betterments for themselves which they sought by overturning its social order. The spirit of patriotism prevailed and they rallied round the flag. The same fundamental issue underlies this question of liability legislation. Shall it be dealt with in a spirit which recognizes the paramount claims of the constitutional principles on which our government was established, those of political equality and individualism, or shall these be sacrificed for socialistic principles which will divide society into two classes: one of industrial serfs, wards of the state incapable of self-protection, the other of overlords commissioned to be their legal

guardians? It is natural to move along the line of least resistance and to seek the remedies which offer the speediest relief regardless of the future. But I take it that the manhood of the future American citizen and the political equality which is his birthright may be worth even more than the material advantages of socialistic laws. When the proud Roman matron declared of her sons, *haec mea ornamenta* (these are my jewels), she uttered a truth which equally applies to every commonwealth. The real strength of a nation lies in its citizens, not in its material possessions. The downfall of the mightiest empire of antiquity was heralded by its accumulating wealth attended by the breaking down of the moral fibre of its people. I would have every worker standing side by side with his employer as a political sovereign trained to insure his own protection and aided, if need be, by the state within constitutional lines to exact the compensation for his services necessary for the purpose.

Annals of the American Academy. 38: 175-83. July, 1911.

System Best Adapted to the United States.

Miles M. Dawson.

The best system would obviously be best adapted to the best nation. Though not intending to indulge in boasting, we would be very loath to admit that the United States was not easily first among nations. If there are reasons why the system is objected to, these reasons then must obviously be based upon mere prejudice. Such ought not to stand in the way of its adoption when the facts are fully known; and will not stand in the way if our nation really is the best and its people worthy of it.

Workmen's compensation is at present being presented to the American people in three forms, viz.:

First: In a form merely optional, i. e., contemplating that employers and employees should bring themselves under its provisions (which, except in the Ohio bill, provides for direct

liability of the employer, instead of insurance) by their own action, or quasi-optional, i. e., requiring them, if not desiring to be bound by its provisions, to take affirmative action indicating their election.

A law of the former character was enacted in New York last year, and took effect on September 1st last. It is reported that but one employer has brought himself and his employees within its purview. This, notwithstanding the fact that the defenses against employers' liability have been considerably modified, a fact which is elsewhere expected to cause all employers to seek refuge under the provisions of such an act.

Possibly a law like that which is proposed in Ohio, removing the defences against an action for negligence, but offering a safe haven in state insurance of the compensation type, might bring more employers under the compensation provisions.

Undoubtedly, under a quasi-optional system, requiring written notice to certain officials to avoid coming under its provisions, a very large proportion would find themselves included within them; but the same reasoning which caused the Court of Appeals of the State of New York to hold that a so-called "compulsory compensation act" is unconstitutional, as taking private property without due process of law, would perhaps apply to any such form, not wholly and in fact optional.

Moreover, it cannot be denied that either an optional or a quasi-optional workmen's compensation system is but a partial and incomplete solution of the serious problems at which such legislation is directed.

Notwithstanding all this, New Jersey has just had recourse to legislation of this type, and such legislation is in process of enactment in Ohio, with every chance of success and differing from the other only in that state insurance is the option offered. It is also expected that the Wisconsin legislation will take the same form.[1]

[1]It has, as have also the new laws in New Hampshire and California.

Second: A law substituting for the present employers' liability law, a system of workmen's compensation, the employer to be liable for the payment of the compensations and the same to be applicable to all employments.

With the exception that it was not made applicable to all employments, but only to certain of them which were selected by reason of the extraordinary peril attending them, and by reason of their not being in competition with similar industries of other states, this is the form which was taken by the so-called "compulsory" workmen's compensation act of New York.

It is now a matter of history that this has been declared unconstitutional by the unanimous opinion of the Court of Appeals. It is declared unconstitutional both under the provisions of the state constitution, and under the provisions of the federal constitution. Against the former determination there is no appeal; and, consequently, so far as New York is concerned, the question is finally disposed of, unless the constitution be amended.[2]

Should such a system be upheld, it would produce as good results as would an optional system such as the New York or the New Jersey type, if the latter were to be universally accepted.

But this system, even if available, is certainly not the best. In the first place, it involves many uncertainties, both for the employer and for the employees. Thus, had there been such a statute in force and applicable to the manufacturing company upon whose premises the frightful holocaust occurred in New York on the very day the decision of the Court of Appeals was announced, it would have resulted, as doubtlessly suits for negligence under the existing law will result, in the ruin of the employer while little, if anything would have been realized for the families of the deceased or for those who were injured.

This illustrates two things, viz.: (a) that it is by no means certain that, under the system of holding the employer di-

[2]This has since been recommended by the Commission and a bill has been introduced to submit an amendment to the voters.

rectly liable, the burden will be distributed, and thus appear in the price of the products or services to be paid consequently by the consumer; and (b) that it is by no means certain that the compensation will be paid at all. In neither case is the community well served.

In the next place, it is a wasteful system. The only means by which a proper distribution of the costs can be made under it is by private, voluntary insurance. In Great Britain, where such a law is in force without modification, and where the best stock companies in Europe that insure against such risks, are to be found, it costs, roughly, a shilling for expenses to get a shilling of benefits to the dependents of the deceased workmen and to those who are injured. It costs no less than 30 per cent of the entire sum disbursed in benefits merely to pay agents for soliciting the patronage of employers; and this does not include the costs of superintendence.

If an adequate system of this type were introduced throughout the United States, giving benefits as large as, for instance, in Germany, I estimate that it would cost, net, about $400,000,000 per annum, to pay the compensation after the plan was in full swing.

If the expense were 100 per cent, as in Great Britain, this would mean $400,000,000 added to the net cost. Of this vast sum at least $120,000,000 would be paid for the services of solicitors—an army of agents, yet to be drawn from other occupations and put into this.

These figures may look large; but it was estimated several years ago from the official returns, that the commissions to fire insurance agents in the United States were no less than $115,000,000; and it is safe to say that under an adequate system of workmen's compensation, covered only by private insurance, the premiums would aggregate a greater sum than is paid for fire insurance. The amount paid in commissions would be at least as large, and the amount paid in total expenses would be considerably larger.

Moreover, there is virtually an irresistible tendency,

when the employer is held directly liable, to impair the effectiveness and value of the compensation system itself.

Thus all such bills offered in the United States so far, have provided for limiting the payment of benefits to cases of total disability, or to widows and orphans, for a certain number of years, thus leaving all those who live beyond that period unprovided for.

In no other country, not even in those which have adopted legislation of this type, has such cowardice been exhibited. In our own, it has not been exhibited as will be seen, in the state insurance law, just enacted in the state of Washington.

There are two things which have caused this action to be taken, viz.: The objection that an employer does not wish to be placed in a position where he will be liable to furnish a permanent income to the injured individual or his dependents. It is put thus: "It must stop, somewhere." In the next place, the private insurance companies have, to my knowledge, urged that they could not well figure what it would cost on this basis. This is true in a sense, although such costs may be estimated from foreign statistics, within a reasonable range.

Even when, as in Great Britain, there is a provision that at least the benefits for permanent disability must be paid during the continuance of the disability, it is found in practice that every loophole in the statute which will permit compromise is promptly availed of. This is well illustrated by the very small reserve which British companies are required to hold in order to take care of such deferred liabilities and perhaps even better by this criticism which recently appeared in a prominent British insurance paper, operated also as a journal in the interest of the companies:

> We must say, that if anything is likely to provoke the state to start compensation insurance, it is the action of many offices in "bluffing" claimants into unjust settlements. Almost every day we notice in some part of the country the intervention of the County Court to prevent the registration of some agreement which is manifestly unfair * * * To-day they often trade upon the ignorance of claimants when they should be collecting higher premium rates. This naturally arouses the anger of all right minded persons and it certainly gives those members of the community who are inclined towards socialism an opportunity to plead for the nationalization of all the means of production, distribution

and exchange. If the insurance offices serve the public well they have nothing to fear, but shaving claims to swell dividend returns is not good service.

This editorial was based upon the following statement concerning the decision of a British judge:

Judge Emden said that he did not approve at all of those lump sums. They were getting far too frequent. He believed that he was correct in saying that now the larger portion of the work under the Workingmen's Compensation Act was being transacted under agreements of that character and the object of the act was being defeated. If the case before him was, as was alleged, an improper case to bring, it was not a case for an agreement at all, and ought to be dismissed. If it was a proper case, then an agreement was not the right way to dispose of it, and he did not think the workman would be properly protected unless the matter came before the court. He had been watching those cases for some time, and his conclusion, based upon investigation, was that the whole beneficial effect of the act was being defeated.

Mr. Hurd said if the payment of lump sums under agreements were abolished there ought to be some central authority to say when a man should return to work.

Judge Emden—That is equivalent to saying the act cannot be worked in its present way satisfactorily.

His Honor declined to accede to the application, remarking that agreements of that kind were increasing to such an extent that he must do all he could to stop him.

When the payments are commuted in this manner, the ultimate result must be that one of the chief purposes of such legislation, viz.: that these unfortunates be provided an income, will be defeated; and it is to be expected in consequence that they will soon be dependent on public or private charity, precisely as if no such plan had been introduced.

As much is indicated, likewise, by the reports of the committee sent by the Trades Congress of Great Britain to study the German situation, which said, among other things, that it was observable that in Germany there were literally no slums —a fact sharply in contrast with the conditions in Great Britain under its exceptionally liberal compensation act.

Third: A system of compulsory insurance in which the state lends its sovereign power to afford at least the compulsion and in which it either may or may not also assume the management and conduct of the business.

Many critics have regarded this as peculiarly un-American; but the interesting thing about it is that it was regarded as quite as peculiarly un-German, un-Norwegian, un-Gallican, and, so late as three years ago, un-British, and on precisely

the same ground, viz.: that "ours is a free people and will not endure compulsion."

Yet the system has now been in use in Germany for twenty-five years, and is so thoroughly satisfactory, both to employers and employees, that nothing would induce them to change. It has also been in force in Austria for nearly as long a period, a country where they have the mixed population problem as in the United States, and in a more aggravated form. The satisfaction with the system has been such that the joint kingdom of Hungary has, after waiting over twenty years also introduced compulsory insurance. In Norway, which has the reputation of being, next to Switzerland, the most democratic country in Europe, it has been so popular likewise that compulsory sickness insurance, recently introduced, is now also generally acceptable. In France, after two decades of resistance and over ten years' experience with a law holding the employer directly responsible, compulsion has been accepted in connection with an invalidity and pension fund plan. And in Great Britain, there is virtually no outcry on the part of either employers or employees, against the proposals of the present government to introduce compulsory insurance against invalidity and also against unemployment.

In our own country, even before the present agitation got under way, the employers and employees who were engaged in coal mining in certain counties in Maryland, were so much in earnest about the matter that after passing one compulsory insurance act, which was declared unconstitutional, they secured another to obviate the constitutional difficulties; and the legislature of Montana, with the approval of the owners of coal mines there as well as of the miners, adopted a similar plan for that state.

At the present time, plans of state insurance, either compulsory or optional or quasi-compulsory, are before the legislatures of several states, including Michigan, Ohio and Texas, and already a compulsory state insurance plan, applying to nearly all employments, has been enacted into law in the state of Washington.

It does not appear, therefore, that when the subject is fully understood, there is any insuperable prejudice against state insurance, if it will produce the best result for the least expenditure of money. It must be admitted that state insurance is effectual. It really does accomplish what it sets out to accomplish. It has everywhere been conducted economically, whether the management be kept in the hands of the state or in the hands of the employers or of employers and employees together. Thus, the expense in Norway, Austria and Germany is in no case more than 16 per cent of the net costs, as compared with 100 per cent in stock companies in Great Britain.

In Germany, the management as to permanent disability, widows' and children's benefits is in the hands of mutual associations of employers and the benefits of the first thirteen weeks, in the hands of sickness insurance associations in which the employees elect two-thirds of the trustees and the employers one-third, and it has been found that the cost of management is even a little less than elsewhere, the employers' associations being at about the same rate as elsewhere, but the sickness insurance associations at a cost of about 8 per cent.

In the matter of prevention it is everywhere acknowledged that the system in use in Germany is by far the most effectual, the employers imposing upon themselves rules for avoiding accidents to which they would probably never submit, were they imposed by the government or by a private insurance company.

That this is true, and that it may greatly reduce the hazard is sufficiently shown by the experience of the factory mutuals in the United States in fire insurance, which have so greatly reduced the hazards that the cost of insurance is frequently one-tenth of one per cent per annum or less, whereas it used to be from 2 per cent to as high as 5 per cent or higher.

There is also no objection under such a system to affording permanent benefits; and the state is interested, not in having compromises made, which will save a dollar here or

there for the funds, but in having the benefits so paid as to support all dependents. The Washington law so provides, both as to disability benefits and benefits to widows and orphans.

Another very great advantage, especially in introducing such a plan, may also be realized by adopting the assessment system as in Germany, and more recently in Hungary, under which no more is collected currently than is currently required to meet claims.

This would not be safe under a voluntary system, but under a compulsory system there is, of course, no more reason that the government should collect more of these taxes than are currently required, than that it should collect more taxes for any other purpose than are currently required.

Under such a system, therefore, the cost at the outset would not be more than the premiums employers are paying at present; and the increase would be so gradual that at least twenty-five years would elapse before anything like a maximum would be reached, which maximum, likewise, would obviously still be very much less than under any system of private insurance.

Under such a system, also, of course, no employer could be ruined, and thereby no dependents deprived of their benefits.

The question is raised immediately as to whether such legislation will be constitutional. Sufficient time is not allotted me to undertake a discussion of this question. It has, however, from the beginning seemed to me that laws of this character have a much better chance of being declared constitutional than any other laws, excepting possibly those which are purely optional, and among such I hesitate to include the quasi-optional, which require choice to be made in order to remain under the negligence laws.

This view I had formed prior to 1909, after consulting all the decisions available. It has recently been strongly confirmed by the reasoning of the Court of Appeals of New York in declaring the workmen's compensation act unconstitutional, and by the decision of the Supreme Court of the United States in the Oklahoma bank guaranty cases.

One result, also, of the limited research which I have been able to make in the matter is to indicate that there is even greater probability that a proper *national* act of this form would be declared constitutional than there is that similar acts of the legislatures of the different states would be so declared. The national constitution is in this respect broader as to the taxing power than the constitutions of most of the states.

It is peculiarly desirable, likewise, in view of the absolutely free trade among the states that, if possible, this legislation be national, in order that there may be no discrimination against the industries of one state in favor of those in another. The variation in rates for employer's liability insurance is now three to one or even four to one, as between industries otherwise alike but in different states. This should be remedied, not aggravated.

If, therefore, the question, "What system of workmen's compensation is best adapted to the United States?" is to be answered, as if it read, "What system is best for the people of the United States?" there is but one answer possible.

If, on the contrary, it is, "What system of workmen's compensation is most likely to be adopted, taking into account certain prejudices alleged to exist in the United States?" it may be that the answer would be different. Even of that, I am not convinced; for I do not believe that American employers, employees or our citizens in general, are in favor of doing this thing in a way which is certain to be the least effectual and at the same time the most expensive.

Annals of the American Academy. 38: 263-6. July, 1911.

Cost of Insurance. Miles M. Dawson.

The expense of insurance under state compulsion is about the same in Norway (straight out state insurance), in Austria (with employers and employees and the state participating), and in Germany (where the system is two-fold: one part run

entirely by employers with supervision by the state furnishing benefits beyond the first thirteen weeks, and one covering under thirteen weeks run by the employers and employees). The expense is about 12 per cent of the gross collections which in Germany are really about the net amount currently paid out. In Norway it is an amount sufficient also to set by a reserve to take care of the future, and in Austria was intended to be sufficient, but never has been. In Germany the carrying on of sickness insurance by the workmen's societies costs about 8 per cent only.

Private insurance under workmen's compensation laws, has, in Great Britain, cost about 50 per cent of the entire collections, including the amounts required to be put by as reserves; which is fully 100 per cent added to the net cost. In other words, it is about eight times as expensive, from the management and expense standpoint. In England, where commissions are lower than here, the commissions are equal to 30 per cent of the net amount required to furnish insurance.

In figures, I take it that in the United States we shall have about as many dollars to pay for our insurance, when it is in force, as marks in Germany. This is due to the higher purchasing power of money. If that should prove to be true, the net disbursements should not be less than 400 million dollars, when it is in full swing throughout the United States; and if you add 100 per cent for private insurance expenses you will add another 400 million dollars to it. If it is carried on under a similar system to that in Germany, and other countries, it can be carried on for about fifty millions of dollars. I need not say to you that, no matter what system you may use, there are, in fact, $350,000,000 taxes paid unnecessarily for a service not required.

In New York, in the building trades complaint was made after the workmen's compensation act was passed, because it was not state insurance. When they found the rates, made by adding the new charge to the former employers' liability rate, increased to as high as 20 per cent on the payroll—when they faced that, and realized that under state insurance it

probably would not have been over 7 per cent or 8 per cent, their prejudices fell away promptly.

I may say that the Labor Department at Washington has published tables of the rates under all the different systems in Europe and in this country for a large number of representative employments in its September, 1910, Bulletin.

Another matter I wish to call attention to is relative to a statement by Dr. Talcott Williams. He compared the cost under the German system for insurance of employees in coal mines in the last year of the twenty-four, with the cost the first year, and he thought it represented an eight times increase in the cost. This is true only in a certain sense. The German system pays all its benefits in annuities or pensions. The result is that the first year there was only an average of six months' payment of the annuities incurred by reason of one year's accidents. In the 24th year, there were annuities to people who were injured the first year, the second year, and every year up to the twenty-fourth. The actuarial system called for a steady increase of outlay, not due to an increase in the risk at all, but due to the actuarial structure of the plan, which started with only what was necessary to pay the current benefits and has increased as the number of annuitants from the previous years has increased. It is estimated that the ideals when that law went into effect have been realized.

The suggestion has been made of compulsory insurance with free choice of companies. No one who does not study the subject from a technical standpoint, can say what the objections to introducing that system would be. In the first place, it is the experience of all European countries, where they have introduced it, with state insurance in competition with private insurance companies, that state insurance has not been conducted as economically as when given a monopoly. It has been found advisable, also, as in Sweden, to employ agents for the state companies. The moment, likewise, that you give free choice of companies, you must set up a voluntary reserve system, a system of reserve sufficient to maintain all the benefits that you promise to pay. This, as

actuaries will certify, is unnecessary under the compulsory system, but it must be done under a voluntary system, including any system of free choice of companies. This involves a great and sudden increase in rates instead of a gradual one, taking no more money than is currently required.

Reference has also been made to explosives. In countries like Great Britain, where there is a purely voluntary system, the regular companies absolutely refuse to insure, and consequently the only way is for the employer to bear it himself, or for the employers to group and carry on a mutual system. In countries where there is compulsion, but with free choice of companies, the state must cover these risks. Indeed, under such a system the state company must take all the risks that other companies refuse.

Yet, under such a system, which is in operation in Sweden and in Holland, the state company is destroying the private companies utterly. The system merely prolongs the agony and increases the expense.

A suggestion has been made from the platform that perhaps workmen would not be willing to contribute, and that they should not be required to do so. In Europe, it has been found unwise to require them to contribute to defray the cost of industrial accidents. In no case, except in Austria, where their contribution is fixed at 10 per cent, have the men been required to contribute to a fund which pays for accidents occurring while at work. In most comprehensive systems, such as that of Germany, which covers disability due to any cause, there are contributions from workmen. They have been willing to contribute in such case, also, wherever they had the opportunity.

I may add that many, my clients and others, who are adopting mutual systems in this country, have faced this same objection, and, provided workmen were given broad protection, they recognized it as just and have been willing to contribute fairly. It all depends upon whether they are offered a good bargain.

Another statement that I think proper to make, is that the

gentleman who urged amendment of the constitution as the next step, should take into account that in order to generally introduce laws in that way, we must have forty-six separate states take action upon amendments to their several constitutions, and also upon amendments to the national constitution. It would, therefore, be many years before we would have achieved what we set out to accomplish.

One further remark, also, concerning a matter of fact. It is that this suggestion concerning national action calls forth my recollection of an interview with the vice-president of the German insurance department, having charge of the supervision of their system. That gentleman, having watched very carefully the conditions the world over, expressed his belief that the one country in the world where the German system could be used without destructive modification, was the United States. One reason why he was of that opinion, is because we have these separate states and territories. Germany, as you all know, is composed of separate kingdoms, each with sovereignty over local affairs and under its own hereditary monarch. A like situation confronts us in this respect, that there must be free trade between our various states. Therefore, we should have a uniform system throughout the country. What looked at first most difficult there, has now proved the very easiest thing to do; and I am not without hope that such may also be true here.

Annals of the American Academy. 38: 271-3. July, 1911.

Employers and Compensation Systems. Howell Cheney.

I believe that a compensation system is perfectly feasible for the small employer, as well as for the large one, if it is treated as any other item of the cost of production and conducted with strict attention to prevention. I can speak from the continuous experience of a large business which started as a very small one and which has continuously compensated accidents arising out of employment without regard to fault;

that such a practice has proven it possible to go for sixty-five years without an accident suit, and even without paying a lawyer's fee because of personal injuries arising out of employment. Injuries received in the course of employment have been compensated for without question as to the negligence of a fellow servant, or the trade risk, or the contributory negligence of the injured person unless it were of a serious and wilful nature. This system was carried out both as a small firm and as a large one. It was carried out in the belief that strict adherence to the doctrine of personal fault could arrive neither at justice nor prevention.

We have all come to recognize generally that a large part of the industrial accidents are not due to fault in the sense that it is humanly avoidable or preventable, and that the rigid adherence to such a mistaken principle has made neither for efficient prevention nor compensation. But the public realization of the injustice of our old theory of personal fault has lead not unnaturally to the trying out of another fallacy; that since it was not the fault of the injured person it must be the fault of his employer; and hence, it was the duty of the state to step in and demand compensation, because of such assumed or imputed fault on the employer's part. Undoubtedly, gravely dangerous conditions have existed which justify this policy as a matter of equity, if not as a matter of law. But, if the New York decision has freed our minds of the idea that we can arrive at a satisfactory measure of justice by imputing a fault generally, when none may have existed, it may perhaps lead to pointing towards a truer solution of the difficulty. Since the courts have told us that we cannot invoke the police power for the protection of workers, unless fault exists either actually or constructively, we may finally abandon the idea of basing our remedy upon any idea of fault and seek, not negatively, but constructively to legislate for the protection of the workingman by the laying of a tax upon all industries to compensate for the injuries due to the inherent risk in industry as a whole, and justify such tax as necessary for the general welfare.

An appeal to the enlightened self-interests of the com-

munity, especially to employers, has justified taxes for industrial education, for the physical care and feeding of school children, for the suppression of tuberculosis, for the support of the poor and destitute, and for the maintenance of hospitals for insane, drunkards and other mental and moral wrecks of our industrial system. We are no longer justifying our expensive school system solely on the idea that the protection of a citizenship of a democracy demands the cultivation of a higher general intelligence. We are frankly affirming that the protection of our citizenship depends upon the efficiency of its workers, and are making large public expenditures for the cultivation of a higher efficiency. Such expenditures never could have been justified by an appeal to the state to protect its workers from the direful effects of ignorance and inefficiency by an arbitrary taking of money from a limited class of employments in which the conditions might amply justify such a course. The fact that the courts have held that we cannot impute or create a fault where none has existed, nor deprive a man of his property without due process of law would not, at least to the lay mind, necessarily deny the right of imposing a tax upon all of the industries of the state for the protection of the welfare of all of its workers. And if you will appeal to the enlightened self-interest of employers on the grounds of the increased efficiency of their workers, which will result from such adequate compensation and the real prevention which such a tax will induce, you will make far more rapid progress than by grieving over your failure to invoke the police power as regards a limited class of industries by imputing a fault where none may have existed.

It was generally recognized that even if it were possible to base compensation upon the police power it could not have been made automatic as being based upon fault every man must have his day in court to defend himself. It would have thus been subject to one of the worst evils of present conditions, the law's excessive expenses and delays. The creation of a state tax to support industrial insurance does not necessitate such a failure in methods.

Century. 82: 118-22. May, 1911.

Industrial Indemnity. Will Irwin.

We are struggling along on a system of compensation for industrial accidents which is a relic of the old hand-labor days, and which has worked out into a tangle of law, highly expensive, incredibly complicated, and decidedly unjust. All the so-called progressive nations entered the era of specialized labor and machine production with legal principles similar to ours; all but the United States have either amended them or changed them utterly to fit the necessities of the new age.

Ten years ago, the demand for a basic change in the spirit of our law of accident compensation proceeded solely from the more enlightened labor leaders and "charity workers." The business community, if it noticed the problem at all, was deadset in opposition. Five years ago, a few business men awoke to the fact that a scientific system of working-men's compensation must come in this country, as it has come in Germany, England, and France. Now, employers as well as employees are working to hasten the new era; a stable and just form of industrial indemnity is coming with a rush. Three great corporations—The United States Steel Corporation, the International Harvester Company, and the Cheney Silk Mills—have instituted voluntary systems of working-men's compensation. Oregon, Montana, and New York, with the cooperation of the more enlightened among their employers, have passed more or less complete laws embodying the principles which Germany and England have incorporated into their codes. Nine other states have statutes on the new plan before their legislatures. At least twenty more are studying the matter through commissions or committees. The National Association of Manufacturers, the implacable enemy of Union labor, has passed resolutions indorsing in a general way the principle which Union labor was first to advocate. And at present the only active opponents of a modern employer's liability law are a few old-time manufacturers, who can see nothing but next year's

dollar, and the more fanatical or unscrupulous labor leaders, who wish to retain the old code of laws with all protection for the employer removed. On this wing of the firing-line, the battle between the capitalist and the laborer has narrowed down to a contest over the terms of the agreement.

What is the basis, and what are the terms, of the present law of employer's liability which afflicts American industry so grievously? This we must understand before we can understand the new plan and the new era in the relations between the toiler and the employer. Expressed in terms of a layman, our laws, based on the English Common Law, generally declare that the victim of an injury may receive compensation through the courts from any person whose carelessness or criminal intent has caused his injury. The employer and the employee stand on equal footing before this law; in the sight of the State they are separate individuals. Another act of common law declares that the principal is responsible for the act of his agent. A railroad switchman, for example, is an agent of the railroad company. So far, if any one, either passenger or breakman, is killed or injured by the negligence of a switchman, the company should be liable.

This basic law recognizes, however, the principle of "contributory negligence." The fact that the victim, by carelessness, by the lack of proper precaution, contributed to his own injury, may be used to deny him damages or to mitigate them. This is the first instrument employed by lawyers to pervert law to injustice; it is still the stock defense of corporation claim departments against personal injury suits. In itself, however, it is just.

In the dawn of specialized industry, a Lord Chief Justice of England laid down a principle in the law of personal damage suits which may be called definitely an injustice. Known as the "fellow-servant act," it became part of the English law at the very time when industry was becoming specialized. The employer remained responsible for the act or the agent, except in cases where the agent was a fellow-servant of the injured person. That is: if an employer of a gang of shovelers left a manhole open, and one of his labor-

ers fell through it to his injury, the laborer could recover damages. But if another laborer in the same employ left the manhole open, the injured man had no action in law—for the offender and the victim were fellow-servants. If an outsider fell into that manhole, however, he could recover damages no matter who left it open; for in that case the offender was an agent of the employer, not a fellow-servant. That decision, so carelessly conceived that Lord Abinger called the butcher and the baker fellow-servants with the butler and the cook, came over into American law. At one time or another the fellow-servant principle prevailed in all our states. To this day, it remains in most of them.

Our State Supreme Courts have differed widely in their definition of this doctrine. In one state, a flagman is a fellow-servant with an engineer. In another, he is a part of the management. In the first case, an engineer injured because the flagman is "asleep at the switch," cannot recover, though his passenger can; in the other, his suit against the company is as good as the passenger's.

There is little doubt that Lord Chief Justice Abinger had domestic service mainly in mind when he laid down his celebrated principle; and applied to domestic or simple agricultural service, there is justice in it. Where the processes are few and simple, where every man knows his fellow-servants, their faults and peculiarities, the workman may be expected to look out for himself. And, indeed, in that period industry had not gone very far beyond hand labor. But the era of specialized labor, of extreme complex machinery, was arriving even then. Industrial society became highly interdependent. The safety of John Dvorak, miner, lay in the hands of a dozen men whom he did not know, as, for example, the engineer who hoisted and lowered his cage. Men had to accept employments which placed them at the mercy of fellow-servants in the next township or county. The electrical worker could not know for himself whether the engineer in the plant away up in the mountains was likely to get drunk and send a fatal current down a wire supposed to be dead. The engineer of a through New York Central train could not

know, upon leaving Chicago, that a fellow engineer at Syracuse had sat up two nights with a sick wife and was in no condition to read the signals. The growth of modern industry made this law an injustice almost before it was firmly set in the statute books.

This same complexity of modern industry wrought another law, originally fairly just, into still another injustice. I refer to "assumption of risk." By this basic principle an employee cannot be held liable for injury received from a danger with which he is perfectly well acquainted. He has the immemorial right to "quit." That principle worked well under hand labor and individual industry. For instance Farmer Jones keeps a dangerous bull in his pasture. John Smith, farm hand, knows that the bull is dangerous. If he is ordered to enter the pasture, he can refuse; if necessary, he can give up his job; if he takes the chances, he does it at his own fair risk. But industry grew into warfare, returning its inevitable list of killed and wounded every year. In many common trades, it became necessary to assume risks that lay in the nature of the calling, and he who was always watching for his safety was an impossible workman. "Railroading" is perhaps our one greatest specialized industry; and a cautious railroad man is a contradiction in terms. The prevailing type of city building is erected on a steel framework; and the "bridgemen" who do this work must take all the chances of a soldier. That is in the nature of the craft; a coward cannot become a bridgeman. The grim giants of steel which are the tools of our little bodies in this age, present so many complex possibilities of going wrong that no workman may foresee their dangers.

Behold the law, as we carried it over into an age for which it was never conceived. Behold now what a mess we made of its application:

The injured workman had only one recourse beyond the possible charity of his employer—the courts. Obviously, since generally the employer was rich and the employee poor, the former had all the advantage in "good legal talent." The attorneys of the company, the claims department of the

corporation, took advantage of this complex, ill-conceived tangle of laws to throw every obstacle in the way of even the most just claims. On the principle that the poor are woefully given to the purchase of shoddy goods, the working-man—in spite of legal aid societies formed for his benefit—characteristically ran to "shyster" lawyers, who often invented for their clients cases having no basis either in truth or in justice. If the employer, with his claims department, had nearly all the resources and the talent, the employee, with his shyster, had at least one strong hold—the sympathy of juries. "I'll get it before the jury," said the shyster in beginning a case. "Very well, I'll appeal," responded the claims agent. So the suits, gathering expense as they went, dragged over two, four, even five or six years, while a crippled laborer waited unproductive. And when a case was so clear and obvious that quibbles and appeals could not beat it, when the verdict of the jury was finally nailed down hard and fast, then appeared another injustice, this time against the employer. Juries, when they could register their opinions, had a way of giving ridiculously large verdicts. Awards of ten or fifteen thousand dollars for the disabled limb of a two-dollar-a-day laborer have not been uncommon.

Then appeared the indemnity insurance companies, taking the matter further away from a simple relation between employer and employee. These companies were machines. It became their business to pay the indemnity claims of the insured, and to keep these claims down by every fair method known to law. It was part of their policy to discourage the habit of bringing suits for industrial accidents, to make the way to verdicts seem as rough as possible. And they destroyed all feeling of personal responsibility between the employer and employee. "I'm sorry you got hurt, Jim," said the superintendent. "You're a good fellow and a good workman. I can't do anything for you, though. We're insured, and we have to agree not to give any special compensation. You'll have to sue; and I hope you'll get something." How this part of the system operated a modern instance will show. A pressman, a good workman, much liked and

trusted by the management, went back to his shop on his Saturday half-holiday to repair a troublesome bit of his press. Part of his machine fell on him and killed him. It was rather a dangerous operation to perform alone; he must have known the risk he took. Contributory negligence and assumption of risk probably entered into the case. The management wanted to do something for his destitute wife and family. They were warned by the insurance company against giving a dollar, lest it have an effect upon the pending suit. This system became a veritable damper on human sympathy, certain and pitiless.

We are "talking business," however; let us forget sympathy. The point here is the wastefulness of the system. The money paid by employers for industrial accidents dribbled away all along the line before a modicum of it reached the injured working-man. When it did arrive, the beneficiary paid a greater or smaller part of the proceeds for his own legal expenses. Then, too, it was as uncertain as a lottery, three men justly entitled to compensation receiving nothing, while another drew a capital prize.

The record in New York state, where the Employers' Liability Commission has made a pretty thorough investigation, is significant. In three years ten insurance companies, authorized to write employer's liability insurance, received premiums of $23,523,585. They expended in actual payment to employees $8,559,795. In other words, the employees—and their lawyers—received only 36.34 per cent. of the sum of the premiums. Deducting the probable amount of the fees and costs paid by the employees, the percentage falls as low as twenty-eight or thirty.

Insurance is, of course, the most "economical" way for the employer to meet the problem under present conditions; and when we take into calculation the firms not insured, the figures are a little less startling. But in 1907 327 employers in New York State, operating under all kinds of plans, paid approximately for industrial compensation $192,000; of which injured employees or their families received only $80,000.

Probably the proportion is generally lower in the South and Middle West.

Nor from the general view of society is this the whole waste. We have to reckon in the energies of our somewhat expensive courts—and in this year of grace 1911, such cases will occupy one fifth of the time of the New York courts. We have to reckon in the orphan children thrown prematurely into industry, with their uneducated minds and stunted bodies, a drag on the production of the next generation. We have to reckon in the cost of friction between employer and employee. And still I am ignoring the unnecessary suffering of it all.

However, as I said in beginning, the new idea has arrived; and only the old fogies of the corporations and the labor unions are opposing industrial idemnity, except in its small details. Whether a just and general system of automatic compensation for all injuries would cost the employer more or less than the present system is a disputed point. There are figures to prove the case both ways; it is something which we shall never know until we have tried it. Several employers who have adopted a voluntary system based on the European plan, stated to the National Civic Federation that they pay no more, by and large, than they did when they left the matter to law. Others, on figures alone, disagree; they declare that an automatic system of employer's liability, based on the German plan would so increase "overhead charges" that the payment would have to be taken from the public in higher prices.

That, however, is just what the methodical and close-living Germans, with their talent for social machinery, have long ago admitted—that compensation for the killed and injured should be a tax on the industry itself, collected with as little expense and friction as possible. By this principle they have turned back to production the parasites on industrial idemnity; and they have preserved to the body commercial of this and the next generation tens of thousands of units lost under our system—or lack of system. They regard it from the standpoint of the State, realizing, as we

must realize, now that we have broken nearly all our virgin soil, that competition between nations is becoming keener and closer, and that the state which would win must subordinate certain private interests to the interests of the whole body commercial.

The German system, however, is at present an impossible model for Americans. We have not, possibly we never shall have, their minute registration of births, deaths, residences and removals; and their bureaucratic government renders many things possible to them which would be impossible to us. The question before legislatures and civic bodies is how best to adopt their plan to our less settled conditions. Employers' liability in Germany is so intertwined and interwoven with sick benefits and old-age pensions that one finds it difficult to isolate it for a simple statement. Enough to say that every employer and every employee must insure against accident in a state-conducted insurance company, the employers carrying more of the burden than the employees; and that the victim of an industrial accident, whether it result in temporary disability, permanent disability or death, receives compensation on a fixed scale, immediately and automatically. The payments are considered a tax on the industry. The cost of administration is not more than five per cent. of the whole sum; and from that cost Germany pays for the supervision of safety appliances.

For industrial idemnity and industrial safety go hand in hand; and when employers are required to pay for every accident in their shops, no matter by whom caused, they will see, as a matter of self-protection, that the safety devices for which reformers have striven so long and usually so vainly, are placed and kept on their machines. In the past twenty years the raised "set screw" has caused hundreds of deaths and tens of thousands of accidents. "Set screws" can be set flush and thereby made harmless at a cost of thirty-five cents a piece; yet labor unions, charity organizations, and employers' associations have fought them in vain. With the accidents certainly and irrevocably charged

against the industry, the raised set screw and all other unnecessarily dangerous devices would disappear. In the perilous trades, like railroading and steel construction, the employers for their own interests, would curb the reckless trade customs of their young employees. So we should gain in lives, and lose in miseries, as Germany and England and France and Austria have done. Meantime we are the only civilized people in the world who continue to administer this important department of industry on the rules of the old hand-labor days.

Industrial Engineering and the Engineering Digest. 7: 449-52. June, 1910.

Employers' Liability Insurance. Miles M. Dawson.

As at present supplied in the United States, employers' insurance consists of an insurance company undertaking for a consideration, called a premium, to assume the liability of the employer to his employes who are injured by reason of what the law terms negligence, and to the next of kin of employes who lose their lives through his negligence.

In practice it consists in the insurance company making it a business to drive as hard a bargain as it can in the settlement of claims or to resist such demands and defend against them in the courts, if necessary, according as one course or the other may seem less expensive, or for any other good business reason more desirable.

This system has not proved satisfactory to any of the parties in interest. It is not satisfactory to employers, because, while it appeals to them as a ready means of escaping annoyance and occasional excessive verdicts, it involves the payment of large amounts which go for agency, adjustment, home office and other expenses, and which must be paid by the employers in addition to the sums that actually reach the injured employes and the next of kin of employes who are killed. It is unsatisfactory to the companies, be-

cause they find that there is constant pressure upon them to be more liberal in their settlements since the employer is not directly affected by each settlement, and at the same time equally constant pressure upon them to furnish the insurance at lower premiums. It is not satisfactory to the workmen and their next of kin, because they are confronted with a purely business proposition at a time when there may be very great need, and when under the old conditions the employer might, and very likely would, as a matter of sympathy, contribute to their relief, even though not liable under the strict letter of the law. Another objection on their part is that litigation is more expensive to them, longer drawn out, more bitterly fought and the defense conducted by men of special skill in such matters. They also urge that often advantage is taken of their necessities to drive a specially hard bargain without their being made aware of their rights in the matter.

No more than twenty-five years ago German workmen were not regarded as efficient, either from the standpoint of quality or quantity of product, as the workmen of several other countries, and particularly Great Britain and the United States; but precisely the contrary is now generally acknowledged to be the case. It will interest my hearers, I am sure, to know that when I was abroad in 1908, to study employers' liability and employers' liability insurance, as well as other schemes for insuring workmen, I found that the superior efficiency of German workmen, on the whole, was very generally ascribed by everybody to the system of employers' liability insurance which had been introduced in Germany.

Under the system which obtained there before, and which was about the same as in this country at present, the life of the workmen in many occupations was a gamble, in which the fate of their wives and children, and of others who might be dependent upon them, was at stake. They saw the severest misfortune come to families, amounting to complete demoralization, without any fault on the part of the man himself. At the present time, precisely the contrary condition

exists, viz., that the only way in which those dependent upon the workman can be involved in absolutely disastrous misfortune is for him to become an idler and fall out of the ranks of regularly employed wage earners. If he is a steady workman, and if any misfortune comes to him, a sufficient financial support to keep him and his family from the poorhouse or from depending upon public or private charity is assured. The effect of this upon his character is said to have been nothing short of marvelous. Other results are pointed to, namely, that by reason of the new conditions there is very little expensive litigation, that the cost of getting a dollar to the insured workman or to the family of a workman who is killed is about 10 or 12 cents instead of at least another dollar, as in our own country; that the burden on the manufacturers is evenly and uniformly distributed, and that excessive verdicts are not merely transferred from the shoulder of the individual manufacturer to the entire trade, but also do not exist at all.

The general impression in the United States is that Germany has a system of state insurance, where the state collects premiums from the employers, administers the funds, pays the claims, and in general manages the whole affair. The fact is precisely the contrary. The system is one under which the trades themselves are organized into mutual trade associations, to which every person or company engaged in that trade is by law required to belong, and which are managed by their own members. The liability to employes is transferred from individual employers to these trade associations, and the amount of liability is absolutely fixed by law and is likewise entirely independent of questions of negligence, so that there is no quarrel over whether the employer is liable or not. The only difference of opinion that arises is when there is partial disability, the degree of which has to be determined. While these associations are conducted at an expense of about 10 or 12 per cent., it is generally conceded that their effectiveness, both in the shrewd and careful management of their business and also in bringing about the adoption of safety devices and a reduction in the hazards

of industry, far exceeds that of any system which has ever been introduced in any other country.

Under the German system the amount of liability in event of total disablement is fixed at a certain proportion of the wages and is payable like wages—that is, by weekly payments. In the event of partial disablement, an amount proportionate to the impairment of the earning power is paid. In the event of death a pension is paid to the widow during her widowhood—that is, until her death or re-marriage—and a pension to each child until he reaches sixteen years. These pensions in the aggregate must not exceed the amount that the man would have received himself had he been totally disabled. This system I personally regard as being the most satisfactory one for employers' liability insurance that can be found in any country. It could be introduced here, precisely as it is in Germany, only by means of legislation. If there were such legislation, as our national Constitution now stands, it would apply only to individual states and would take effect in those states only when adopted by their respective legislatures.

The further question remains: What can be done under our existing laws by the voluntary act of individual employers or trade associations of employers, and what method of insurance is wisest for them? Employers' liability in its usual form, as a mere means of escaping liability, is perhaps as satisfactory as any other method now open to employers. Its disadvantages are obvious, as already stated.

There are but four other methods available. One of these is a workmen's collective policy, issued by an employers' liability insurance company for protection of workmen without regard to liability, the employer contributing towards the premium and either thereby becoming entitled to be protected against his liability, or else paying a somewhat reduced premium for protection against such liability.

Theoretically, this kind of insurance is much more desirable from many standpoints than employers' liability insurance alone, but in practice it has not found favor.

The most recent form of insurance of this general nature

is known as "employers' compensation policy," under which the employer is authorized to compensate his employes for injuries sustained without regard to liability, to the amount of one full year's wages for the loss of two limbs or the sight of both eyes, of one-half that sum for the loss of one limb, of one-third the sum for the loss of the sight of one eye, and the amount of a fixed compensation as set forth in a list of the same for minor injuries. There is also compensation for temporary disability to the amount of one-half the weekly wages or salary, for a limited period only, and compensation to the next of kin in the event of the death of the employe to the amount of one full year's wages. This sort of insurance also provides for defending the company in event of suit or for adjusting or compromising same; in other words, protects the employer against his liability. Whether the cost of the insurance is to be paid entirely by the employer, or part by him and part by his employes, both contributing thereto, the company leaves open to the employer.

The third method is a system of insurance paid by monthly premiums and furnishing sick benefits as well as accident benefits, the employes either contributing the whole, or the employer making such contributions as he may desire. Under these policies usually no arrangement is made to relieve the employer from liability, except that in many cases no claim is made, in view of the fact that the employe has been taken care of by the insurance. Of course, where the employer contributes, it would be possible in some cases to get an agreement with the employes, relieving him in whole or in part from his liability, unless the law or declared policy of a state should be found to be against so-called "contracting out."

The fourth method is by a mutual insurance fund, created by and among the employes and supported by their contributions, either assisted by contributions on the part of the employer, or entirely independent of such contributions. Under this system, if liberal contributions are made by the employer, it is common for him either to have an agreement

in advance, that he shall not be held liable under the law, and that the benefits provided by the funds shall be accepted in lieu of the indemnity for which he might be held liable by law, or else that a receipt and release to that effect must be given before any portion of the benefits provided by the insurance fund can be drawn. This latter is deemed the wiser course, both because it is more nearly certain to be sustained in all cases by the courts, and also because it does not frighten away the employes and cannot in any way be criticized as "contracting out."

It cannot be said that any of these systems are, except in rare cases, at all to be compared with the system in use in Germany. The difficulty with each of the first three is that the benefits are not large for the contributions made. Relatively large expenses are unavoidable. There must be solicitation by agents, usually not only of the employers, but also of the employes. There must be collection expenses to be paid by commission or otherwise; there must be adjustment from some central office—with the sole exception of the new "employers' compensation policy," which provides for direct settlement of claims—and there must be litigation, which is costly on both sides. None of these three approaches the fourth, or mutual method, either in economy or in avoiding litigation. Under mutual schemes under which employes contribute, and especially if employers also contribute, there is usually a complete provision made for the maintenance of the disabled employe and his family. And since this provision is immediately available there is usually no question raised as to accepting it and going forward without calling in the lawyers or the courts. The expenses should rarely or never exceed 10 per cent of the amount paid out in benefits; whereas it is not probable that any of the others can be operated at an expense of less than from one-third to one-half of the total amount paid—in other words, from 50 cents to $1 for each dollar of benefit.

It is interesting, likewise, to observe that schemes of this general nature, which in Great Britain are known as establishment funds, were introduced in all European coun-

tries successfully before there was any change in the employers' liability laws, and that the best of these establishment fund schemes were preserved after the laws went into force and are recognized to be on the whole more beneficial than the plans set up by law. Thus, even in Germany, the establishment fund scheme, which was already in operation in the great Krupp works, has been continued and is regarded as more beneficial and more satisfactory on the whole than even the perfected plans introduced by the Government.

There would be obvious advantages if the manufacturers here could and would combine to cover their liability and to provide for their injured workmen and the families of workmen who are killed, through their mutual trade association or a subsidiary association connected with it; and if this were established upon a sound insurance and actuarial basis, unquestionably a larger measure of relief to the injured and the families of the dead could be given without an increase in expenditure. Indeed, the benefit would be increased nearly, if not quite, fifty per cent as compared with the cost of employers' liability insurance. Yet these benefits could be paid without an increase of cost to the manufacturers, by permitting and encouraging, or, best of all, requiring employes to contribute in order that larger benefits might be paid, and also that all sicknesses and disabilities might be covered without regard to negligence, and also without regard to whether they are incurred while the workmen are at work or while they are off the work.

There is nothing utopian or altruistic in such a proposition. It has been proved to be a businesslike thing to do, resulting in great economies directly and indirectly, and also in creating a body of unusually efficient, reliable and steady workmen.

Everybody's. 19: 522-33. October, 1908.

Pensioners of Peace. William Hard.

A good law is a law that gets men and women into the habit of doing the helpful thing, the noble thing, the right

thing. Nine tenths of every one of us is habit. The German Compulsory Insurance Law is a good law, not only because it hands out coin and medical supplies at convenient times to injured workmen, but because it sets the face of the whole German nation habitually toward preventing the crippling and mangling of human beings, toward healing the wounds of those who, in spite of all precautions, have been overtaken by the bloody misfortunes of peace, toward lessening pain, toward spreading happiness.

The difference between the German situation and the American situation is the whole difference between that modern, scientific, peace-making device called "Compulsory Insurance," and that medieval, unscientific, strife-breeding contrivance called "Employer's Liability."

Under Compulsory Insurance the remedy for an accident is to get the victim on his feet again as soon as possible, and to think up the best way of preventing all accidents of that particular kind in the future. Under Employer's Liability the remedy for an accident is to start a lawsuit.

The weapons of Compulsory Insurance are safety-devices and convalescent homes. The weapons of Employer's Liability are lawyers; judges; instructions to the jury; what-did-Blackstone-say? doctrine of contributory negligence; 17 south-by-east reporter 845; the-Supreme-Court-hasn't-spoken-on-that-point-and-probably-it-won't-speak - for - a - couple - of years-yet; doctrine of fellow servant; error-in-allowing-the-doctor-to-say-how-much-the-man-said-his-head-hurt-him; *volenti non fit injuria;* I except: fifth amendment; appeal.

On the eleventh day of July, in the year 1890, the steamship Tioga made port at Chicago and came up the Chicago River as far as its dock at the foot of Randolph Street. It carried 320 barrels of benzine, naphtha, and gasoline in its fantail hold. On top of these barrels it had a lot of bales of cotton-waste. And just near the combing of one of the hatches, leading down into the hold, it had two lamps. There was an explosion, and twenty-five workmen were killed. That was in 1890.

Last year, in 1907, seventeen years afterward, Wirt E.

Humphrey, commissioner for the federal courts in Chicago, handed in a preliminary report on the subject of the Tioga accident. Together with his report, he transmitted to the judges eleven volumes of testimony, six of which had been contributed by witnesses for the dependents of the dead men, and five by witnesses for the steamboat company.

The verdict in the lowest federal court has not yet been given. After that there will be an appeal to the Circuit Court of Appeals. And after that there will be an appeal to the Supreme Court of the United States.

How have all these years been spent? Not in relieving the distress of the human beings who were impoverished by the accident, but in trying to find out just where the technical legal blame lay for the accident itself. Not in helping the widows and orphans, but in laboriously endeavoring to fix the personal responsibility for the character of the cargo and the location of the lamps.

The years when compensation was really needed have now passed. The widows who were forced to beg, they have begged. The children who failed to get an education, they have failed to be educated. The wrong of the case has been done. The human misery of the case has been endured. Everything is all over. Except in the courts. Everything connected with the case is finished. Except the case itself. The only thing that survives is that thin legal emanation from the dead body of a human problem long since resolved into its elements. The ghost of the Tioga affair still goes soft-footing along the corridors of the Federal Building, but the Tioga affair itself breathed its last warm, human breath many years ago.

Let us now see what Compulsory Insurance would have done with the same set of facts. Let us translate the whole tremendous social vision called "Workingmen's Insurance," first seen by German economists like Winkelblech and Schaeffle, afterward obeyed and written into law by German statesmen like Emperor William the First and Prince Bismarck, and now rising in light over every European country of any importance; let us take that bold, sweeping concep-

tion, in which the misfortunes of men in their millions are averaged to form a composite social policy, and translate it into the every-day details of the little life-drama of some individual workman who happened to be rolling a barrel on the decks of the Tioga on July 11, 1890.

We will suppose his name was Smith. And we will suppose he wasn't instantly killed. He was only frightfully burned, especially about the eyes. They weren't so much afraid at first that he would die as they were that he would go blind.

The question is: What happened to Smith under a system of Compulsory Insurance like the system they have in Germany?

The first thing that happened was that Smith was at once removed to a hospital by the officers of his local sick-club. Smith belonged to a club of that kind. He had to belong to one. It was the law.

His club was called "The Chicago River Sickness Benefit Association." All the men who worked on boats or on docks along the Chicago River belonged to it. And all the employers of those men belonged to it, too. The men paid two thirds of the expenses of the club. The employers paid the other third. The total amount of those expenses depended on how many cases of disease and accident happened along the Chicago River.

Smith lay in the hospital a day, and then the doctors decided that they could cure him just as well at home. So they sent him home and put him to bed there, and came every day and treated his eyes. These doctors were paid by the Chicago River Sickness Benefit Association.

On the morning of the fourth day, Smith began to get not only medical attention, but a regular money compensation. It was called his sick-pay. It amounted to just one-half his regular wages. It was paid by the Chicago River Sickness Benefit Asssociation.

Smith began to be glad that a cruel and oppressive government had forced him to pay weekly premiums to a sick-club.

For four weeks Smith lay on his bed and writhed with the pain in his eyes, and his wife took his half-pay and fed him and the children. It wasn't very sumptuous eating. Not much porter-house. Mostly potatoes. But it was their own.

They didn't have to slink into the office of the county poor agent. They didn't have to take the price of a week's food for hungry stomachs from the claim agent of the owners of the Tioga and sign a waiver of all legal claims and say: "Thank you. The courts might give us $200 in a year or in five years or in a decade or two, but we need $5 now." They didn't have to live on advances from some ambulance-chasing lawyer who had taken up their case against the Tioga company as a speculative investment in legal futures. They didn't have to send in their name to the editor of a yellow journal in order to be able to eat on Thanksgiving. They didn't have to become Case Number 11,896 in the records of the bureau of charities. What they had was little. But it was coming to them rightfully, legally, honorably. It saved them from the unforgettable humiliation, the ineradicable degradation, of benevolence.

If Smith had been suffering with rheumatism or pneumonia or appendicitis, he would have got his doctors and his sick-pay just the same. In fact, the sick-clubs, as their name implies, exist mainly for the purpose of relieving the distress caused by disease. It is only incidentally that they relieve the distress caused by accidents. They take care of accident cases for only thirteen weeks, at the most.

The sick-clubs, therefore, are only a temporary feature in the German scheme of dealing with accidents. But diseases are just as much a part of every-day industrial life as accidents. And the sick-clubs of Germany are worthy, accordingly, of a little paragraph of their own in any article devoted to the pensioners of peace.

Here is that little paragraph:

In Germany in the year 1904 (the last year for which full, accurate figures are available) there were 22,192 sick-clubs. They had nearly 12,000,000 members. And they provided medical care and money compensation for more than 100,000,000 days of sickness! In one year!

What a saving of human misery lies in those figures! And more than that. What a saving of human self-respect!

But let us go back to Smith, who is still lying on his back, with his eyes horribly hurting him. He can't even open them. And by this time his wife is crying because she thinks Smith will never see again. *There* is something no human device can ever cure. For ever and ever workmen will be blinded by the accidents of modern industry, and for ever and ever women will cry for those sightless eyes. We can't stop their crying. But we *can* prevent them from being hungry and from begging. And some day we shall do it just as effectively in Pittsburg and in St. Louis as in Hamburg and in Berlin.

Along toward the end of Smith's fourth week in bed he had a visitor. It was the local agent of "The Great Lakes Marine Accident Insurance Association." This association included all the owners of all the boats plying on Lakes Ontario, Erie, Huron, Superior, and Michigan. It included, therefore, the owners of the Tioga.

No workman belonged to the Great Lakes Marine Accident Insurance Association. Only employers. It was entirely an employers' organization. The employers paid all the premiums and elected all the directors.

The local agent sat down at Smith's bedside and addressed him as follows:

"You look pretty bad to me. These doctors that have been coming to you from the Chicago River Sickness Benefit Association don't seem to be helping your eyes much. Can't see a bit, can you? Well, it's up to them by law to take care of you for thirteen weeks. But I guess we'll have to step in right now and take you off their hands. We can't afford to let you go blind. If you lose your eyes, we'll have to pay you a pension all the rest of your life. I guess it's you to our hospital."

So spoke the agent, after the brutal manner of his kind. And the next morning the ambulance came and took Smith to a big hospital on the West Side.

This hospital had been built by a kind of Union of Em-

ployers' Accident Insurance Associations. "The Western Building Contractors' Accident Insurance Association" was in it. And "The Great Lakes Marine Accident Insurance Association." And "The Illinois Manufacturers' Accident Insurance Association." And a lot of others.

These associations were not run from Washington by the government. They were run by their own members. The idea that the German insurance associations are managed by bureaucrats sitting in heavily upholstered and red-tape-embroidered offices in Berlin is completely wrong. All that the government does under the German system is this (and here is the gist of the whole Compulsory Insurance idea):

The government takes each industry and each trade in the empire and says to the people who own it:

"You must form an accident-insurance association which will include all the employers in your industry and in your trade. And you must pay compensation to all your injured workmen according to a fixed scale. We won't stop to try to divide the blame for accidents between you and your workmen. We will assume for practical purposes that you weren't trying to commit murder and that they weren't trying to commit suicide. We will assume that accidents are accidents. And we will make each trade bear the burden of its own accidents. We will make each trade add the cost of its burned-out eye-sockets to the cost of its burned-out coal-grates in computing the market-price of its product. So you *must* form your accident-insurance association in your industry and in your trade, and you *must* pay your injured workmen the compensation fixed by law. But that's where we stop. Everything else rests with you. Go ahead and elect your own officers and fix your own details to suit yourselves. Invent your own safety-devices. Adopt your own shop rules. Employ your own factory inspectors. Engage your own doctors. Build your own hospitals. Do all, or none, of these things, as you please. Profit by your own wisdom and your own humanity in preventing accidents and in curing their consequences. Lose money by your own inefficiency and your own cruelty in letting accidents happen

and in neglecting injured workmen. All that we insist upon is that your trade shall carry its own load of the wounded and the slain. This is not bureaucracy. This is not paternalism. It is trade responsibility. It is trade self-government."

But what about Smith's wife while Smith lay in a dark room in the hospital? Well, Smith didn't need to worry about her. She wasn't as well off, of course, as if he had been at home and at work. But she was at least three-fifths as well off. She was drawing, every week, sixty per cent. of the wages Smith used to earn on the Tioga. This weekly compensation was paid to her by the Great Lakes Marine Accident Insurance Association. It was enough to keep Smith's home intact till Smith could get back to it.

Meanwhile the officers of the Great Lakes Marine Accident Insurance Association had been looking into the Tioga accident. And the more they looked, the more irritated they became. Bales of cotton-waste on top of barrels of gasoline! Amazing! Frightful! A clear violation of the by-laws of the association! And now, in consequence, here were all these workmen, including Smith, who had to be compensated.

So the Great Lakes Marine Accident Insurance Association tried the owners of the Tioga and fined them one thousand dollars, and said: "We earnestly regret that the law doesn't allow us to fine you any more."

And two lamps standing near the combing of the hatch leading down into the hold! Somebody must have put those lamps there. Who was he? The officers of the Great Lakes Association had become so peevish about it by this time that they had their inspector spend a whole week in finding out who that man was. And, fortunately, when they found him, he was a man who had left the boat to go on the dock for a minute or two, just before the explosion occurred, and so he wasn't dead or in the hospital. He was perfectly eligible to be fined, and they fined him a month's pay.

Disciplinary measures of this kind are granted by the German law to the trade insurance associations. Each in-

surance association may make rules and regulations to govern its members and it may discipline its members, or its members' employees, for disobeying those rules and regulations.

That is to say, under Compulsory Insurance the governmen makes private individuals do much of its work for it. Which is just the reverse of paternalism.

In the year 1904, the German trade insurance associations, in order to make their rules and regulations effective, employed 217 factory inspectors. These private factory inspectors did virtually the same kind of work that is normally done by public factory inspectors. They went about from place to place, within their trades, and saw to it that all possible safety-devices were adopted, and that all possible safety regulations were observed. And their salaries were paid out of the insurance funds of private employers.

Think of that! Private factory inspectors! It doesn't sound much like paternalism, does it? It sounds a good deal like personal responsibility and private initiative. There must be some vigor in a system that sends Germans to a heartless extreme of that kind.

After six weeks in the West Side hospital Smith died. His death surprised the doctors, because his eyes were getting better; but his constitution had been eaten away by hot days and damp nights on the Chicago River, and he had no vitality. The long confinement and the agony of his burns finished him.

His funeral expenses, amounting by law to twenty times his daily wages, were paid by the Great Lakes Marine Accident Insurance Association. And that association also began immediately to pay a pension every week to Smith's family. It was sixty per cent. of the wages Smith used to earn, and it was due to keep on coming as long as the widow didn't marry somebody else, and as long as the children were too young to earn their own living.

The Smith family was part of the Great Lakes carrying trade, and its misfortunes, so far as they were caused by the trade, had to be borne, at the least to the extent of sixty

per cent., by the trade itself. Not by the bureau of charities; not by the tax-payers; not by Smith's six-months-old baby. But by the trade.

Is there some sense in that idea?

But we will suppose Smith didn't die. He simply lost both his eyes. In that case the situation, at first, was worse than if he been carried to the graveyard. Smith, being blind, couldn't earn a living any more than if he were dead, and yet he had to wear clothes and eat food. So, as long as he remained completely helpless and as long as he needed special care, the Great Lakes Marine Accident Insurance Association had to pay him full wages.

Perhaps after a while, however, Smith, though he was blind, was able to weave baskets. Then his pension was decreased in proportion to his earnings.

Again, perhaps Smith neither died nor lost his eyes. Perhaps he came through all right. Perhaps the specialist in that West Side hospital cured him. Perhaps his wife came to the hospital and he saw her for the first time in three months, and they both laughed, although they were both pretty thin and pale; and they went home together and Smith started back to work. What then?

Why then the Great Lakes Marine Accident Insurance Association was quit of the troubles of the Smith family, not because it had got Smith to scratch his name on a release, not because it had hired a better lawyer than Smith could hire, not because it had proved Smith guilty of being a fellow servant of the man who had misplaced the lamps, not because it had appealed the case from court to court till Smith could hold out no longer, not because it had defeated Smith in a legal battle, but because it had made Smith well in a medical triumph.

Which was the better victory for human beings made in the image of God?

And now for a few paragraphs of statistics!—An honorable writer always gives fair warning on such an occasion. But these statistics won't be hard to read, anyway. They are about people. And besides, they deal with a subject that

is bound to become a pressing public question in this country within the next few years.

"It is a reproach to us as a nation," said President Roosevelt in his message of last March, "that in both state and federal legislation we have afforded less protection to both public and private employees than any other industrial country in the world."

A situation of that kind cannot long be permitted to continue. It is not only a reproach, but it is also a source of internal social discontent and danger. And when we come to legislate about it, the country that will give us the best lessons will be Germany.

In Germany, in the year 1904, there were 114 employers' trade accident-insurance associations built along much the same lines as the association we have imagined existing among the owners of the carrying trade on our Great Lakes. The members of these German employers' trade accident-insurance associations, in the year 1904, employed some 17,500,000 workmen. In other words, 17,500,000 German workmen, in the year in question, were protected (to the extent outlined above in Smith's case) against the consequences of industrial accidents.

Compensation was awarded, in the year 1904, to some 150,000 employees who had been injured in the course of the year.

Compensation was also awarded to some 600,000 employees who had been injured in previous years, and who still remained totally or partially incapacitated.

And, finally, compensation was awarded to some 65,000 widows and to some 100,000 children of dead accident victims.

All this cost money, although, of course, in multitudes of cases the accident was so slight and the resulting incapacitation so trifling that the compensation awarded was almost nominal. However, the total amount of compensation, in the year 1904, reached $30,500,000.

So much for accident-insurance. Now to go back for a minute to sickness-insurance.

In 1904 the German sick-clubs (the nature of which has already been illustrated by our imaginary "Chicago River Sickness Benefit Association") awarded compensation to the extent of just about $60,250,000.

But the Germans have a third form of Compulsory Insurance, which has not yet been mentioned. It is called invalidity-insurance. It provides small pensions (very small) for workmen who have become permanent invalids through sickness, and for workmen who have reached the age of seventy. The employers pay half the premiums of the invalidity-insurance funds, and the employees pay the other half. And the imperial government adds a small bonus. The amount of compensation awarded by the invalidity-clubs in 1904 was, approximately, $35,500,000.

The total cost of accident-insurance, sickness-insurance, and invalidity-insurance to the German empire in the year 1904 was, in round numbers, $126,250,000.

Half of this cost, roughly speaking, fell on the employers of Germany and the other half fell on the workmen. The proportion of expense assigned to employers and workmen, respectively, varied from one kind of insurance to another, but when all three kinds were added together and averaged, the burden was just about equally divided.

Let us now see how the triple insurance idea works out in the case of some particular firm. Let us take the big Krupp Company at Essen. This famous industrial enterprise handles the heaviest and most disastrous kind of iron-and-steel work. Its insurance premiums might be expected to be quite high. And they are. From 1885 to 1902, inclusive, the insurance premiums paid by the Krupp Company amounted to more than $2,000,000.

It was an enormous sum. But it was an enormous company. The real test is to take the amount paid in any one year and compare it with the total pay-roll of that same year.

Applying this test to the Krupp Company, it will be found that in the year 1902 the total insurance premiums paid by the Krupp Company amounted to just 2.7 per cent. of the total wages paid by the Krupp Company to its employees.

In other words, if a Krupp workman was earning ten dollars a week, the Krupp Company had to pay twenty-seven cents every week in insurance premiums for him, and he had to pay, roughly speaking, twenty-seven cents for himself.

A charge of that kind is not likely to ruin the industries of a nation nor to drive its workmen to armed and desperate revolt.

And that twenty-seven cents weekly on every ten dollars of wages included all three kinds of insurance. It paid for sickness, accidents, and invalidity. If the circulation be restricted to accidents alone, a precise estimate, with present figures, cannot be furnished, because, as has already been explained, accidents are paid for out of both the sickness funds and the accident funds, and their true cost is difficult to disentangle.

By no stretch of liberality, however, could it be computed that in the year 1902 the Krupp Company paid as much as two per cent. on total wages for the accident victims who were compensated out of the sickness funds and the accident funds to which the Krupp Company contributed.

But let it go at two per cent. That means two dollars on every hundred dollars of wages for accidents alone out of the funds of the company. Was it a large charge or a small one? Well, call it large. No employer likes to add two per cent. to his pay-roll.

It should be remembered, however, that if Compulsory Insurance costs money, Employer's Liability costs money, too.

Just look at the records of the American Employer's Liability companies! They insure employers against having to pay damages to injured workmen under our American Employer's Liability laws. The employers pay premiums to the liability companies. The liability companies then defend the suits and satisfy the verdicts. The employers themselves are saved unharmed.

Many employers are too big to need to insure themselves in this way. The railroads and most of the "trusts" can look after themselves. They would not be financially crippled by

even the biggest kind of accident, involving hundreds of workmen.

Many other employers are too small to be sued successfully. Or else they are engaged in light work that doesn't cause accidents. Or else they are too stupid to see that they need insurance.

But from the remainder, in the year 1906, the Employer's Liability companies of America collected almost $20,000,000 in premiums.

That was not a negligible sum of money.

And the rates charged the individual employers were not negligible, either.

A well-known Chicago manufacturer, in response to an inquiry from Everybody's Magazine, gives his rates as follows:

For men employed in his machine-shop: 57 cents on every $100 of wages.

For millwrights engaged in outside work: $1.25 on every $100 of wages.

For teamsters: $2.40 on every $100 of wages.

Just observe that last rate. For teamsters, driving horses on the streets, 2.4 per cent. of their total wages! Every time that manufacturer paid a teamster ten dollars he had to pay his liability company twenty-four cents!

And that didn't include sickness. It didn't include invalidity. It was just for accidents.

Nor was that manufacturer engaged in a particularly hazardous line of business. If you want to see what the really hazardous businesses cost, just get the official "Manual of Liability Insurance." In that interesting book you will find the official rates, and if you knock off 33⅓ per cent. (which is the discount allowed in many states), you will be left with the following charges:

For men employed in building street railways: $3.00 on every $100 on wages.

For men employed in quarries: $3.60 on every $100 of wages.

For men employed in cellar-excavation: $4.00 on every $100 of wages.

For men employed in steel-work on high buildings: $9.00 on every $100 of wages.

These four illustrations will be enough. The rest can be found in the book, and they are worth reading as a highly emotional picture, done in statistics, of the relative danger of modern occupations.

Nine dollars on every $100 of wages! It is a terrific charge. And yet the industry isn't ruined. The high buildings keep on going up. And they would keep on going up just the same if the money were spent in compensating the injured workmen instead of in trying to prevent them from securing compensation.

For why does Employer's Liability cost so much? There are many reasons, but the main one is that we make every accident a legal fight.

In the eleven years from 1894 to 1905, inclusive, the Em ployer's Liability companies of America took in $99,959,076 in premiums from American employers.

How much did they pay out in compensation to injured workmen?

Just $43.599,408.

Just 43.6 per cent. of what they took in.

And they didn't make excessive profits, at that. Their business is highly competitive. The money was spent in getting the business and in fighting pitched legal battles against the injured workmen's lawyers.

The injured workmen's lawyers! Don't forget them. They have to be paid. Sometimes they get ten per cent. of the proceeds. Sometimes they get twenty-five per cent. Sometimes fifty per cent. Sometimes seventy-five per cent. If, on the average, they leave the injured workman two thirds of the final verdict, they are leaving him more than most practical students of the subjects think they are.

And *they* aren't making excessive profits, either. They have to fight long fights to get those verdicts.

Nobody is personally to blame. They are all creatures

of the system. But the sad fact remains that out of almost $100,000,000 paid by the employers of America to protect themselves against the consequences of accidents in the eleven years from 1894 to 1905, not more than $30,000,000, after the injured workmen had paid their lawyers, reached the pockets of the injured workmen themselves.

Seventy per cent. for expenses! Thirty per cent. for compensation!

It would take an ingenious man to devise a more wasteful system.

Compare it with the cost of administering the German system. Mr. Frank A. Vanderlip, the New York banker, after studying Compulsory Insurance as practised in Germany, says that the expenses of administration over there amount to less than ten per cent. The German system of Compulsory Insurance spends ten per cent. on expenses and ninety per cent. on compensation! It gets ninety out of every hundred dollars spent in insurance premiums right to the place where it is needed. We are lucky if out of every hundred dollars we spend in liability premiums we get thirty dollars to the men who endured the accidents in their flesh and bone.

The substitution of the idea of insurance for the idea of liability, of the idea of cooperation for the idea of litigation, has been most completely effected in Germany. But it has been at least partially effected in many countries.

Austria, Italy. Spain, France, Belgium, Holland, Denmark, Norway, Sweden, Finland, all have insurance systems, some of them compulsory, others voluntary, full-grown and well-developed in some cases, in other cases merely embryonic, but always and everywhere officially recognized and earnstly encouraged by the national law.

The idea of Employer's Liability is a dying idea in Europe. In some countries its obsequies have already been performed, and in all the others the pains of dissolution have begun.

In Great Britain the situation is somewhat different. The English haven't taken up Compulsory Insurance. Their

method is what they call Compulsory Compensation. And their experience is particularly interesting because of the general similarity between their legal institutions and ours.

They used to have the same kind of Employer's Liability that we have now. In fact, they invented it. We simply imported it. There is nothing dazzlingly original, there is nothing endearingly native, about our present system. An American who suggests changing it is not guilty of an unpatriotic preference for foreign institutions. It was the English who thought up the doctrines of assumed risk, contributory negligence, fellow servant, and all the rest of it. What we have now is simply a legal fashion that they originated and that they thought was very beautiful until 1897, when they put it up on the top back shelf because it was *passé*, and something more modern in effect was needed.

It was in 1897 that the first British Workmen's Compensation act was passed. This act (subsequently confirmed and expanded by the acts of 1900 and 1906) established a principle that at first sight seems to be harder on the employer than the Compulsory Insurance system of Germany.

The German sick-clubs, it will be remembered, are obliged to take care of accident victims for a period varying from four to thirteen weeks. Now, these sick-clubs, since two thirds of their expenses are borne by the workmen themselves, act as a kind of temporary cushion between the employer and the ultimate cost of the accident. Two-thirds of the cost of each accident, for from four to thirteen weeks after it happens, is borne by organizations to which the employer contributes only one third of the premiums.

In England, the law does not save the employer to this extent. It requires no contributions of any kind on the part of the workmen. It makes the employer pay the whole bill. It gives him, at most, a week of grace. If an accident results in an incapacitation of less than a week there is no compensation to be granted; but as soon as the second week begins, compensation must begin, too, and if the incapacitation lasts for two weeks or more, then the compensation becomes retroactive and must be paid for the first week as well.

The scale of compensation is that as long as a workman is kept away from work by the consequences of an accident, he shall get halfpay, and if he dies his dependents shall get a sum amounting to three times his annual earnings.

And compensation must be paid no matter how the accident was caused. All accidents must be paid for. And they must be paid for by the individual employer himself. He is personally responsible for all accidents that happen to his men. This hideous assault on property was accomplished in the Parliament of 1897 by a trio of political adventurers, consisting of that unbridled visionary, Joseph Chamberlain, that ruthless revolutionist, Arthur Balfour, and that red-handed proletarian, the Marquess of Salisbury.

Mr. Chamberlain was the author of the bill. He spoke of the legal situation then existing (namely, the same situation that now exists in the United States), and called it a "great scandal."

Mr. Balfour observed that in his opinion the only way to "diffuse the shock" of accidents, which fell with crushing weight on the poorest and weakest part of the community, was to put it bodily on the employer and let him add it to the cost of his commodities, and so pass it on to consumers at large.

But it was left, as usual, to Lord Salisbury to infuse solid argument with a light of satire. Most English manufacturers, said Lord Salisbury, were calling the bill socialistic. They seemed to him to be mistaken in their use of terms. Clearly it was the present system that was socialistic. Under the present system, when a railroad killed one of its engineers it passed his children over to the community to be supported in a poorhouse by the tax-payers. That seemed to him to weaken the sense of personal, private responsibility that a railroad company ought to have. It seemed to him to cultivate too great a readiness to fall back on the state. He was in favor of a change that would call on the state to do less, and on private employers to do more.

The government of 1897, which passed the first Workmen's Compensation act, was a Conservative government.

The government of 1906, which passed the third and final act on the subject, was a Liberal government, strongly supported by a large Labor group in the House of Commons.

It may safely be said that the policy of Workmen's Compensation has been definitely and finally accepted by both the great English parties.

English workmen, like German workmen, are now able to get precisely calculated and immediately available compensation for their injuries as long as those injuries deprive them of their earning power. Unlike German workmen, however, they are not yet protected, as a body, against sickness.

But even in this matter a start has been made.

Connected with the Workmen's Compensation act of 1906, there is a "Schedule of Occupational Disease." The workman who is incapacitated by any of the diseases in that schedule has the same right to compensation that he would have had if he had met with an accident.

But the man's disease, under the English law, must be one that is directly caused by his trade. A caisson-worker who just happened to get typhoid fever wouldn't be entitled to compensation. He could get typhoid fever in any trade. It must be a disease for which the trade itself can be held responsible. And it must be a disease mentioned in the "Schedule of Occupational Diseases."

There are now twenty-four entries in that schedule. British workmen are now entitled to compensation for caisson disease, for lead poisoning, for mercury poisoning, for arsenical poisoning, for phosphorous poisoning, for nystagmus (a disease of the eyes caused by work in mines), for poisoning by anilin in dyeing establishments, and so on through a list of twenty-four specific bodily ailments caused specificially by certain modern industrial occupations.

The English trade-disease compensation scheme manifestly accounts for only a small corner of the whole broad field of sickness in general, so comprehensively covered by the German sickness-insurance system.

But even under the English scheme no such case could

happen as recently came under the observation of the New York Charity Organization Society.

That society was appealed to for help by a family for which, in place of the charity-society card-catalogue number, we will imagine the equally effective disguise of the name of Jones.

Mr. Jones was dead and the Jones family was destitute. How did it happen? It is a short story, very simple, very ordinary, very commonplace, and therefore very instructive.

Mr. Jones had been, first, a printer. In the printing-shop where he worked for a big publishing firm an accident happened to him, and he lost a hand. It was an ordinary, commonplace accident, and there was no legal claim to compensation. Jones simply walked out, less one hand.

He had to stop being a printer, but finally he got odd-job work as a painter. His one-handedness made it very difficult for him to keep himself clean of the white-lead paint. He got lead poisoning and died.

How was he killed? The process was begun by the printing trade and finished by the painting trade.

And how was his destitute family supported? By the contributors to a charity society.

It seems like a weird piece of logic, doesn't it, when you look at it with eyes not of established convention but of disencumbered common sense?

Jone's children are pauperized at the very outset of their lives because the printing trade crippled their father and the painting trade poisoned him.

The cost of that accident has not been escaped simply because neither the printing trade nor the painting trade was under any legal liability for it. The cost is borne by a number of people who, most of them, have nothing to do with either trade. What a poor way of bearing it! What a foolish, indirect, unjust, expensive, humiliating, degrading way!

Under any rational system the Jones family would continue to be an independent, self-respecting family, and their legal, honorable indemnity would be paid to them by the trades that had caused their misfortunes.

It is time, in America, for the community to stretch out a strong right arm and readjust the American Law of the Killed and Wounded.

There is some reason to believe that America is beginning to realize. There are many evidences that the conscience of the nation is already stirred.

One of the most striking of these evidences is to be found in the numerous sickness-benefit clubs and accident benefit clubs promoted by individual American employers among their employees. A whole article could be filled with an account of clubs of this kind.

But they suffer from many radical defects. They will not solve the question. They depend on the individual goodwill of an individual employer. Or else, sometimes, on his desire to advertise himself. Or else, occasionally, on an unscrupulous, underhanded hope that by means of contributions by employees to a mutual insurance fund, the employer himself may be relieved of a large part of his legal obligations for all accidents that may happen.

Most private accident-insurance schemes are regarded with deep distrust by the employees who are ordered, by a rule of the firm, to contribute to them. Those schemes are not a part of the law of the land. They are not officially sanctioned by public policy. They smack of philanthropy, at the best; and of sneaking self-seeking, at the worst.

And even if the best possible interpretation be placed on all of them, they remain, in their total, nothing but an unusually small drop in an unusually large bucket. The main mass of American workmen, whose employers are just average employers, remain totally unaffected.

The only avenue through which a broadly satisfactory reformation can be accomplished is the community itself; that is, the federal government and the state governments.

The timorous reluctance with which most American employers still regard the enactment of a public law on this subject is in itself a confession of weakness. And like most weakness, like most cowardice, it comes off worse among human beings than strength and courage would come off.

An abominable system of accident compensation is only one of many causes of social discontent in this country, but that discontent waxes apace. And, mostly, it is blind, angry, resentful, unconstructive. It is just discontent. And therefore doubly dangerous!

A nerveless, palsied, fear-stricken refusal on the part of any national community to put its hand to the root of social disorders and absolutely remove the ground from which they grow will always bring with it its own punishment in the way of unintelligent, though understandable, violent, and perhaps successful revolutionary agitation.

This cowardice, this fear, is what Emerson was talking about in his essay on "Compensation" when he said:

"One thing Fear teaches, that there is rottenness where he appears. He is a carrion crow, and though you see not well what he hovers for, there is death somewhere. Our property is timid, our laws are timid, our cultivated classes are timid. Fear for ages has boded and mowed and gibbered over Government and Property. That obscene bird is not there for nothing. He indicates great wrongs that must be revised."

And among the wrongs that must be revised there are few that go more deeply into the marrow of industrial life than the method now existing in America for compensating the men and women taken out of industrial life and stretched on beds of pain and poverty by the antics of the physical, material machinery through which modern civilization is perpetuated.

When that wrong is revised, a long step will have been taken toward social peace and mutual social unembarrassed fearlessness (which is the greatest gift modern national life can hold) between those that own and operate property and those that own and sell labor.

Here and there, among American employers, there arises one who sees through the complicated color-plates of the present along the converging lines of the picture cast by social forces on the screen of the future.

Among such employers Mr. T. K. Webster, of the

Webster Manufacturing Company, spoke perhaps the noblest, as well as the simplest and most unstudied and unaffected, words ever spoken on the subject of industrial accidents by any American employer when, in a little impromptu speech late one afternoon, before the City Club of Chicago, after the regularly appointed speakers of the day had taken their seats, he rose impulsively and said:

"It is a matter of depreciation in men, just like depreciation in machinery. I presume there is not a manufacturer in Chicago but what, when he figures up his condition at the end of the year, charges off a certain amount for depreciation. It is the most natural thing in the world that he should do so. His tools wear out in from ten to twenty years, and if he keeps them on the books all that time he is simply fooling himself.

"Last year, I remember, our balance-sheet showed that we charged off something like $20,000. Do I go grumbling around and saying that it is an awful thing to thus charge off $20,000? Why, no! It is the depreciation. Now, friends, in God's name, why should we not allow for the depreciation in men?

"We know that every thousand pounds of lead we manufacture costs somebody something. The man who is breathing that poison into his lungs, it costs him something. Now, should he and his children bear that burden or should we charge it up against the industry? Let us add an eighth of a cent a pound. Let us distribute it. Who will know it?

"When it is presented to the American people, I believe they will say it is just as fair to charge up every year the depreciation in men as it is to charge up the depreciation in machinery and buildings. And when we have done that, we will not only have done our duty to the great body of laborers, but we will not pay, in my judgment, a single cent more than we are paying now.

"We pay it all now just the same. Don't think for a minute we aren't paying it. We are paying it in the hospitals, in the poorhouses, in the degradation, in the pulling down of all these people, where they are swept under and

become the submerged tenth simply because we aren't doing justice to them. Let us put upon every industry the cost of the depreciation of its own men. And let us pay it as we would any other honest bill."

This speech, like General Grant's memoirs, has the inimitable simplicity of the man. As for its style, let it stand. It presents, beyond improvement, the full power of the argument for compensation for the misfortunes of industrial life. And as for its logic, are there any challengers?

Injured in the Course of Duty. Conclusion. pp. 172-9.

William Hard.

The question of compulsory automatic compensation for all industrial accidents is no longer a question. It is an answer. And it is shouted from every corner of the world.

For the assuagement of a universal social ailment there is now a universally recognized social principle, proved by all past experiment, accepted for all future action, unquestioned forevermore by any scholar, by any statesman, of any reputation, in any country.

It is a principle which has found its way even into the field of international diplomacy, a field in which no principle is suffered to appear till it has survived its period of hungry, daring, speculative adolescence and has matured into the condition of an amiable, plump platitude.

Sir F. Bertie, from Paris, sends a communication to Sir Edward Grey, in London. It is "A Dispatch from His Majesty's Ambassador, forwarding a convention between Great Britain and France, signed at Paris, in regard to Workmen's Compensation for Accidents."

This principle of automatic compensation, at home now in the correspondence of ancient nations, is equally a familiar figure in the statutes of regions which lately were wildernesses.

In the Canadian Northwest His Majesty, by and with the advice and consent of the Legislative Assembly of the Prov-

ince of Alberta, enacts a Workmen's Compensation Law, a law cast in a standardized mold from an international pattern, a law which in the remoteness of Edmonton could be discussed in terms of old understanding by a sojourning stranger from Zurich, a law which in effect says to the Workman: "You earn your living not only by the sweat of your brow, but in the blood of your heart; you shall be paid out of hand for both!"

From Alberta the principle of automatic compensation traverses the international boundary line to the south and reappears in Montana. The Montana legislature establishes a State Accident Insurance Fund. It is on behalf of the coal industry. The employers put in one cent for each ton of coal mined. The employees put in one cent for each dollar of wages earned. The money is received, invested and disbursed by the state auditor and the state treasurer. The disabled miner gets a stipend proportioned to his previous income. The dependents of the killed miner receive a lump sum of $3,000. It may be a skillful application of the principle of automatic compensation. It may be a bungling application of it. But there it is, that principle! It is inevitable, because both intellectually and morally right.

In Illinois it continues to advance unretarded by the weight of the disapproval of the legislature of 1907. Governor Deneen has determined to appoint a second industrial insurance commission. He has listed the principle of automatic compensation among his settled policies. And in his "administration" bill for the construction of the twenty-million-dollar Deep Waterway he carries that principle forward by indirection, insinuating it into the march of a great public project. The bill provides that the Board of Deep Waterway Commissioners shall fix a scale of benefits to be paid for injuries and deaths happening in the course of the work of construction, that if the work is done by the state the benefits shall be paid by the Board, that if the work is done by contract every contractor shall carry sufficient insurance to guarantee the payment of the benefits, and that all pay-

ments shall be made, not for the legal merit of the death or injury but for the fact of it, without litigation.

These incidents, from Paris, from London, from Alberta, from Montana, from Illinois, are nothing but little chips of news which have chanced to come ashore on the editorial desk on the morning on which this pamphlet is being concluded.

Reader of this pamphlet, stand for just a moment beside the deep stream of development on which such chips of news in swelling multitudes are borne. Examine just a few of the books and articles to which allusion has been made in the foregoing pages. Consult just a few of the persons and organizations mentioned. Follow the course of the stream, just hastily, just summarily, from the time when it issued from the hard soil of economic study in the books of the German scholar Schaeffle to the time when it rolled in a cataract through the popular speeches of Theodore Roosevelt. Observe in the interim how it flowed through the best minds in all countries. And you may trace its history before Schaeffle, if you please, its underground history, back into the deep-down, world's thought-supporting works of Johann Gottlieb Fichte, now a century below us. It is an old stream now, with reminiscent scenery on its banks, recording the labors of great men long dead; labors, however, which have not died with them, for if you will pick up any bulletin of the International Labor Association you will see there, as your eye marks the close-set references to reports and laws from all five continents, the innumerable mouths through which the broadening torrent of their thought is discharging itself into the sea of world action.

You will perceive, after even casual study, that this is no sudden freshet, no creature of a spring rain. You will perceive that its origin is deep in soundly labored theory, that its course has been dug for it by informed statesmanship, that in its surface history of forty years it has wound its way through mountains of selfish opposition and across life-sucking sands of popular inertia, and that nevertheless it has gained volume with every decade till now it cannot pos-

sibly be dammed, or even diverted. It has reached the ocean. Its waters wash all human shores. And they saturate all human opinion not only on the subject of Industrial Accidents, but also on the subject of Sickness and also on the subject of Old Age, and also on the subject, finally, of Unemployment.

For what does automatic compensation for accidents propose? It proposes that out of our present income we shall lay aside a fund to meet coming mishaps. No matter what line of attack an automatic compensation law may follow, no matter whether it purports to draw the fund entirely from the employer or even entirely from the employee, the issue is that it becomes a charge upon industry as a whole, that we all contribute to it in the cost of every commodity we produce and in the price of every commodity we buy, that we are all associated in a common prevision and anticipation of our future.

So far from attacking the present relationship between employer and employee, automatic compensation specifically recognizes it. The backbone of present so-called "Capitalism" (namely, the hiring of the unpropertied class by the propertied class to do work for wages) does not, because of automatic compensation, lose a single vertebra. Automatic Compensation has nothing whatever to do with Socialism, except that it is accomplished under the supervision of the state. So is war. And a state supervisor of an automatic compensation plan would have to be just about as much of a socialist as Secretary Dickinson is.

Dr. Schaeffle (known as "the father of industrial insurance"), in writing about the principle of automatic compensation, gave it its true name. He called it "Selbstfuersorge" (self-care). It is the antithesis of charity. It is the antithesis of what is commonly understood by "Paternalism." For this reason:

Automatic compensation, in any form, means that the participants in every business enterprise have to make provision in the present for the future; that they have to look forward and prepare themselves to meet the financial shock

of mishaps which are uncertain as to date but absolutely certain as to occurrence; that therefore they have to adopt the device of insurance; that accordingly all the participants in the business, whether employers or employees, are obliged, directly or indirectly, to pay the premiums out of which the insurance fund is maintained, and that finally when any of them are injured they are paid not in mercy by a kind lady, not in paternal beneficence by the state, but in the course of business by themselves, in strict justice out of their own money.

Which brings us to the climax of the whole discussion.

We have talked in this pamphlet almost exclusively about accidents. But if the principle which leads to compulsory insurance against accidents is once started on a free course, it plunges onward irresistibly to compulsory insurance against sickness, to compulsory insurance against old age, and possibly at last to compulsory insurance against certain phases of unemployment.

These four great continuous evils—loss of earning power by accident, loss of earning power by sickness, loss of earning power by old age, and loss of earning power by unemployment—are the permanent pitfalls which line the path of working life and which show in their depths an enormous proportion of all the poverty and misery in the world.

Unemployment, in the mass, is genuine. It is not imagined by the bookworm or originated by the hookworm. The sluggard's strenuous flight from useful exertion, the tramp's poetic preference for the vernal roadside, the beggar's public whine for the price of a bed are subordinate, though eye-catching incidents. They argue a continuous and picturesque rejection of opportunity. But the bulk of unemployment is neither continuous nor picturesque. It happens jerkily and unobstrusively, in periods of a few days or a few weeks at a time, and when not the result of sickness or of bodily accident, is caused mysteriously, with the quickness and blindness of a dark-driven stiletto stab, by some sudden fluctuation in the industrial demand for labor—the loss of the German trade, the withdrawal of a contract, the

success of a rival business firm, the drop in the price of hogs, the glut in the copper market, the invention of a new machine, the mere advent of a slack season. The exposition of the facts would require another pamphlet, but there may be found now, on pages 290 to 293 of the Eighteenth Annual Report of the Commissioner of Labor, a composite and conclusive picture of some of the elements in the case.

The trade conditions which demand twenty thousand men in the packing industry to-day and only fifteen thousand to-morrow—which are the conditions responsible for the bulk of Unemployment—are no more controllable by the employee than are sickness, old age, or physical injury.

The applicability of compulsory insurance, combined with work bureaus, to the simpler forms of genuine unemployment is now being experimentally developed.

Its applicability to sickness, old age, and physical injury is known and admitted.

For what is the sum of the whole matter but insecurity. And what is the answer to insecurity but insurance?

Finally, what is insurance but self-care?

The system of self-care, as a whole, however, is for the speculations and debates of coming years. We are here immediately concerned only with that part of self-care which deals with physical injury caused by industrial accidents.

What a small part! How radiant with healing light for the misery in the dark places of hazardous daily toil, but still how restricted in scope, how unanswerably triumphant in its past, how unadventurously certain of its future!

This pamphlet advocates no impromptu invention of amateur philanthropists. It exploits no freshly patented social-reform novelty. Its unoriginal task has been to emphasize the facts and to sharpen the arguments in an old field of industrial statesmanship. Its modest purpose is to hasten, by ever so small a margin of time, the day when the states of this Union will of necessity adopt a recognized remedy for a recognized wrong.

New York. Labor, Department of. Bulletin. 39: 442-56. December, 1908.

Employers' Liability or Workmen's Compensation.

L. W. Hatch.

Twenty thousand factory and shop workers in this Empire State injured by accidents in one year! That, observe, is a list of casualties for only two of the great branches of industry, namely, manufacturing and mining, and does not represent complete figures even for those. No one can tell what the grand total of killed and wounded in the whole army of industrial workers in this state in a single year is. To know that, one would have to consider the other great branches of industry, especially transportation and building, not to mention agriculture, fisheries and forestry which have their hazards also. For the great transportation industry here are two significant totals from the reports of the Public Service Commission. For the year ended June 30, 1907, there were 2,025 reported injuries to employees (449 fatal) on the steam railroads of the state. In the last six months of 1907 there were 426 casualties to employees (65 fatalities) on street railways reported by telephone to the Commission for the first district, which is practically New York City. For the building and construction industry we know nothing at all as to total figures, but here is a single item that is suggestive. The Central Federated Union in New York City reported the other day, after investigation among its members, that no less than fifty-five men had been killed in the construction of the new Blackwell's Island bridge. Manifestly the 20,000 accidents in manufacturing and mining would have to be increased by thousands more before one would approach the total of all industrial accidents in this state in a single prosperous year.

But that 20,000, about which we know something of detail, is sufficiently large to give us food for thought. Let that thought be directed for the present to the following points: First, the burden imposed by these accidents; second,

who now carries that burden; third, is the burden now justly placed; fourth, if not, where should it be placed, confining ourselves all the time as closely as possible to New York State.

First, the burden entailed by industrial accidents. This comprises two elements: the one, the physical suffering of the injured man and the mental anguish of himself or friends; the other, the economic loss of wages and medical or funeral expenses. To get an idea of the physical suffering and mental anguish, note the extent of injury suffered in the different accidents. The 20,000 accidents quoted above is merely a round number based on the 19,431 accidents in factories, shops, mines and quarries in this state which were reported to the Bureau of Factory Inspection in the year ended September 30, 1907. So far as could be judged by reports made usually within a very brief period after the accident (the law requires report of accidents within forty-eight hours of occurrence), 14,298 of these injuries were only temporary. But many of these temporary injuries were no light matter as to physical suffering. For example, 665 of them involved fractures of bone. But on the other hand there were 2,733 cases in which the injury was plainly permanent and in 2,053 others the injury was so serious as to indicate probable permanent results at the time of the report. Of the 2,733 known permanent disablements, in 112 there was a loss of one or both arms, limbs, hands or feet; in 90 cases the sight of one or both eyes was destroyed; in 1,909 there was a loss of one or more fingers; in 174 cases there were permanent internal injuries. Finally there is a grim death roll of 344 or more than one death for every workday in the year. It needs but a very little imagination stirred by memory of sickness or death in one's own home to make of these cold figures an appalling picture of pain and anguish. Were it not the present purpose to be scrupulously unsensational, the above figures could be clothed with detail as horrid in kind, though not in such mass, as any battlefield description could offer, by simple quotation from the detailed statement of fatal accident cases in the last report of the Bureau of Factory Inspection.

But turn now to the economic burden entailed by accidents. First of all, of course, is the loss of wages. The range of this loss in different cases is simply unlimited. It extends all the way from the man who loses but fifteen minutes of working time for bandaging of a bruise to the workman whose life is cut off and in whose case the wage loss could be figured only in the capitalized earnings of a lifetime. Information happens to be at hand as to the loss of wages in thirty of the 1907 accidents. These were taken at random. Whether they are typical of all accidents or not is wholly uncertain. On the one hand they probably represent the more serious of non-fatal accidents, but on the other include no fatal cases. But, however typical, they will serve for concrete illustration of the point in hand. The loss of working time in them varied from one day to seventy-five weeks and in the latter case the man was still idle at the time of report. For the thirty cases the total time lost, so far as could be known at the time of report, was 349 weeks. The total loss in wages of these thirty workers was in that time $4,505. In the case of five the loss was not over $25. Twelve lost from $50 to $100 and thirteen over $100, of whom four lost over $400. The average loss for the thirty was $150. Compare this with the average annual wage of male factory workers over sixteen years of age in this State (all of the thirty employees above considered were men over sixteen except one), computed from the figures of the federal census of manufacturers for 1905, which was $579. It will be seen that the average wage loss in these thirty more serious but non-fatal accidents was equal to 26 per cent of the average annual wage in manufacturing industries.

But the loss of earnings during the period of the worker's total disability is not always the only wage loss. Of the thirty injured employees above referred to, twelve were reported to be unable, after the accidents, to do the same work as before, and five returned to work at lower wages than they were receiving prior to the accidents. Here is indicated for some cases permanently lowered earning capacity with continuous effect on wages thereafter. In the ex-

treme case of permanent complete disablement such loss rises to that in fatal accidents when, of course, there is, for the family, a permanent total loss of wages.

Loss of wages is the chief element in the financial burden of accidental injuries but not the only one. In addition there is the immediate burden of expense for medical care, or burial in fatal cases. Figures for such losses are even more meager than for wage losses, This point was definitely reported in only thirteen of the above thirty cases and in these the medical expenses varied all the way from $1 to $175, except in one very serious case for which that outlay was stated to have been $500.

Now the mere size of the economic burden entailed by accidents suggested above is not unimpressive. But to realize its true significance it is necessary to consider it in relation to the economic position of the wage earner. Mrs. More, in her study of "Wage Earners' Budgets," found that in 200 wage earners' families in New York City whose average annual income ($851) was considerably above that of the average male factory worker over sixteen years of age in that city ($628) the average annual surplus of income over expenditures was $15.13. It was noted above that in thirty accidents taken at random the average loss in wages was $150. It was frankly admitted that it was entirely uncertain how typical these thirty cases are. But in the interests of statistical caution cut this average wage loss in two, and you still have a loss of income, to say nothing of medical expenses, equal to five times the average surplus found by Mrs. More. Morover, 153 of her 200 families had a deficit or just came out even at the end of the year. In other words the economic burden of industrial accidents often falls where it tends to press down immediately to actual poverty. Mrs. More concluded that one of the chief causes of dependency in the families she investigated was that of "illness or death of principal wage earner." Among the thirty accident cases here frequently adverted to, and none of them fatal accidents, it actually appears that in nine, other members of the family, wife or children, were com-

pelled to go to work or to work harder as a result of the accident. This was only the first fruit of these catastrophies, such as could be seen within a few months of their occurrence. It is hardly necessary to point out to an audience of those more or less expert or specially interested in charitable work that such economic burdens often work out their full results only in a long course of time. To quote Amos G. Warner in his "American Charities," "frequently pauperism does not result until years afterwards, when a widowed mother has broken down in the attempt to support her family, or when some aged or incapable relative has been turned adrift from the incapacity of the family to maintain him longer."

Such, hinted at rather than adequately described, is the burden of human suffering and economic loss connected with industrial accidents. It is sufficiently great to demand as a pressing practical problem of justice and humanity earnest inquiry as to where it now rests and whether it ought to rest there.

One part of the burden does and can rest in only one place. The physical pain and mental anguish, save in so far as the latter may be intensified by the economic burden, can by no means be shifted from the injured worker or his friends. Concerning this burden civilized society can entertain but one ideal, namely, all possible prevention of accidents, which experience indicates is to be attained primarily by means of vigorously enforced factory laws for the safeguarding of work places, together with the education afforded by museums of safety devices.

But the economic burden, whose first incidence is also upon the injured workman or his friends, may be shifted. It has already been indicated that not infrequently some part of the burden ultimately comes upon society at large in the form of public charity due to the dependence of injured workmen or their families. This, however, amounts rather to an alleviation of the ultimate effects of the burden than to an actual shifting of it and is but a drop in the bucket at the most. The main question concerns the shifting of the

burden from employee to employer. This actually occurs at present in one of two ways; by voluntary assumption of some part of the burden by the employer or by compulsory assessment of it upon him as matter of law.

Voluntary assumption of the burden by employers occurs in various ways. Frequently it takes the direct forms of payment of wages in full or in part during disability, or payment of some or all of the medical expenses, or simple donation of a lump sum. or some combination of these forms. A not uncommon form of voluntary assistance appears in employees' benefit associations, or relief departments, paying accident benefits to which the employer contributes either in cash or by free services of administration. Sometimes an employer will insure his employees collectively with a commercial insurance company and pay some part of the premiums himself. Finally, in a few rare cases, employers maintain a regular system of compensation of their own without cost to employees.

To what extent the financial burden of accidents is thus transferred from worker to employer by the voluntary initiative of the latter in these various ways, we are unfortunately without precise information. Some evidence on this point is afforded, however, by the following figures from the report of the State Bureau of Labor Statistics for 1899. Therein, for a total of 1,657 cases, it was found that the employer paid wages in full in 14 per cent of the cases, wages in part in 2¼ per cent, medical expenses in 1⅓ per cent, medical expenses and some other assistance in ¾ of 1 per cent, and all costs of the accident in 2¼ per cent. In 8 per cent of the cases it was reported that assistance was received from an employers' and employees mutual benefit association, and in 3 1/5 per cent from an insurance company. Too much ought not to be assumed as to the general applicability of these proportions. But if it be borne in mind that they represent only non-fatal accidents and that in the case of mutual benefit associations, relief departments and workmen's collective insurance the great bulk of accident relief is, as a matter of fact, paid by

the employees themselves, and if allowance be made for the use of nominally "voluntary" assistance as a means of escape from legal liability, it seems safe to infer that the portion of the economic burden of industrial accidents now voluntarily assumed by employers in this State is but a small fraction of the whole.

But is there not hope that with advancing enlightenment of employers as to their obligation for the welfare of their employees there will be an extension of this voluntary assumption of the burden? To this question the best evidence available does not afford a hopeful answer. Passing over an inherent defect in much of such voluntary assistance, due to its menace to the workers' independence, a fundamental difficulty in the way of its extension lies in the fact that voluntary assistance, if it is to meet the need at all adequately, must be freed entirely from the element of uncertainty, which now attaches to much of it, and must take the form of a fixed and permanent system for all accidents. The financial risk involved in such a system is too great for any but the very strongest employers to carry individually, so that for employers generally some form of associated insurance would be indispensable. Any movement in this direction short of a general one for a given industry would break down before the economic law that the level of competition tends to be controlled by the standard of the least liberal employer. No, admirable as the idea may appear, that employers generally will voluntarily cooperate and assume the burden of industrial accidents, it must be classed as a dream which is nearer the millennium than the present day.

This brings us to the vital question in the whole matter. How much of the economic burden of accidents does society, through the voice of law, say the workman may, as of right, shift to the employer, and is society now doing justice in this matter?

The law which answers this question in New York State is found in the common law of employers' liability for accidents to employees as it has been slightly modified

by two statutes; one, the act of 1902, known as the Employers' Liability Act, the other an act of 1906, usually referred to as the Railway Liability Act. Stripped of legal phrase, and ignoring minor qualifications, the law says to the injured workman essentially this: Your employer must exercise due care for your safety while at work, as to place, materials, appliances, competent fellow workmen, and rules for conduct of the work, the care due being such as a reasonably prudent man would ordinarily exercise. At the same time you and your fellow workmen must exercise due care to avoid danger. If now you can prove that the accident was caused by some negligence of your employer as to the above duty and can also prove, if necessary, that you yourself did not neglect to be careful, in any such way as to lead to the accident, and that none of your fellow workmen (other than superintendents, foremen or those controlling the movement of trains) did, then you may claim as legal right that the economic burden of the accident shall be shifted to the employer. This right you must assert and prove, however, in a civil suit.

Let us see now how this works in practice and how much good it does the injured workman. Note first, that the method of determining the workman's right places him and his employer in an antagonistic attitude and that they do not stand on equal terms in the contest. Damage suits are never calculated to induce friendly relations between the litigants, and a suit between employer and employee, quite as likely as not, pits a man earning only a bare subsistence, or a widow close to poverty, against an opponent (be it the employer or an insurance company who insures him against this liability) with plenty of capital at his back. An illustration of the possible results of this inequality of financial position is afforded by a case of which the particulars happen to be at hand, in which an employee, who had been two months idle as the result of an injury and who proposed to bring suit, was threatened by the employer with dismissal if he did, and being in pressing need of work was thus forced to abandon the action.

In the second place the method is full of vexatious uncertainty and cruel delay. The question of negligence must be determined according to the circumstances of each case and the circumstances of different accidents vary almost infinitely, with scarcely any two precisely alike. The result is that in the effort to interpret what fulfils that wholly indefinite requirement of "reasonable" care under constantly varying circumstances, judges themselves, to say nothing of juries, constantly fall into error resulting in constant appeals and new trials. Three years is generally accepted as about the average time required at present to finally determine such suits in New York State. Meantime the injured workman or his family is carrying the whole burden of the accident, whereby such a thing as the following, noted by chance in the daily paper, becomes only too possible. A news item in 1907, slightly condensed, reads thus: "Yesterday the Appellate Division reversed judgment and granted a new trial in the action brought by Margaret Wren to recover $10,000 for the death of her husband, who died from the effects of burns received by the contents of a ladle filled with molten iron falling upon his head and body on December 26, 1900. Mrs. Wren has six children, all of whom are depending upon her for support." Further, the amount of damages which may be recovered for a given injury is wholly dependent upon the will of juries, resulting largely in guess work, often influenced by sentiment, so that damages awarded for the loss of a leg have been known to vary in nine different suits, from $5,000 to $35,000, with no two alike.

In the third place the method is enormously expensive and only a fraction of what employers pay out ever reaches the point of need, namely, the injured workman. Litigation is notoriously costly for all parties. It is common for employers to insure themselves with commercial insurance companies against their liability to pay damages to injured workmen so that in case of accident and suit the insurance company defends the case and, if it loses, pays the damages. In 1905 the employers in this state paid out in premiums

for such insurance $4,381,634 but the insurance companies paid to injured workmen for damages only $1,393,931. In other words two-thirds of what the employers paid out went to the insurance companies to pay the expenses of their business or profits. But still worse, the other one-third did not all reach the injured workman by any means. According to those well informed in the matter, the average contingent fee received by plaintiffs' attorneys in suits of this kind is between a third and a half of the amount recovered. Verily, whatever of the economic burden of industrial accidents is actually shifted from the shoulders of the injured workman, through his legal right, doubles or trebles itself, if not more, by the time it reaches the employers' shoulders.

But finally, in the fourth place, as a matter of fact the present legal right of workmen can, at the best, shift only 10 to 15 per cent of the burden of accidents from their shoulders. That is the commonly accepted estimate of the proportion of all accidents in which there is any hope for the workman of proving negligence on the part of the employer.

So then, we have arrived at this: Society at present in New York State leaves 85 per cent of the economic burden of industrial accidents on the shoulders of the injured worker or his family save for a very limited possibility of voluntary sharing of the burden by the employer. Now why is this burden thus left in the great majority of cases upon the injured workman? Is it because 85 out of every 100 victims of accidents have failed to exercise the "due care" which the law requires of employee as well as employer, as described above? No, for while it is true that many workmen are injured through their own carelessness, wherever statistics on the point have been collected they prove conclusively that in the great majority of cases accidents are not caused by the victims' carelessness. Thus for nearly 50,000 cases in five years investigated in Austria, in only 26 per cent could the accident be ascribed to the fault of the victim. German statistics show similar results. For a major-

ity of the cases then the question still remains: How is this leaving of the burden on the injured workman or his friends justified? The simple truth is, it is not justified. It is simply left there as the result of a legal anachronism. The common law of employers' liability holds that the ordinary risks of an occupation, after the employer has discharged his duty of exercising reasonable care, are voluntarily assumed by the workman when he enters the occupation, on the theory that one who wittingly encounters a danger must take the consequences if he is injured; the assumption being that a workman of average intelligence understands the danger and is free to seek other employment if he does not care to incur such danger, the supposition being also that the workman in hazardous occupation receives a higher wage to compensate him for the extra risk. Now, without wasting any time on the legal subtleties of the argument, the vital defect in the whole thing is that it is historically out of date. The doctrine became established in the common law long before present conditions of work existed or were dreamed of. This was in the days before the industrial revolution when hand work in small shops prevailed, with the few dangers inherent in the work plainly obvious and practically in the hands of the workman as to control and under an industrial organization in which the artisan was nearly as independent economically as the master. Since those days the revolution wrought by steam and machinery has transformed the workshop into the factory where high power, swift machines, largely beyond his control, surround the workman on every hand and under an industrial organization in which the ability of workmen freely to choose or reject occupations with a view to escape their risks, or to secure higher wages as compensation therefor, are myths. Mechanical occupations have become so generally hazardous that for a great mass of workers it is these or none, while that they are compensated for the hazard by a higher wage is wholly disproven by almost any wage statistics. In a word, while the workman's legal rights in the matter have remained stationary

the necessary environment of his work has constantly grown more dangerous. The law inherited from hand-tool days is simply an absurdity in 1907 when in the factories of New York State for every accident caused by hand tools there were thirteen caused by mechanical power.

What now shall be the remedy? For it is hard to believe that public sentiment, once aware of the true state of the case as outlined above, will tolerate any other question. The answer is, simply fit the law to the fundamental fact of the case that the bulk of industrial accidents are due to the workers' environment and not to his fault in the sense that he is more careless than those in other walks of life. This means treating the injured workman as the *victim*, not the cause, of the accident and in place of a penalty giving him or his family compensation for loss of wages and medical expenses. Who shall pay this compensation? The answer to this is, that after all that is possible has been done to prevent accidents and outside of wilful misconduct of workmen, accidents must be regarded as practically a necessary incident of the modern productive processes by means of which society is able to enjoy the present degree of variety and cheapness in its food, clothing and housing. The cost of accidents which injure workmen should be made a part of the cost of production, just as the cost of accidents which do damage to factories by fire now is, to be included in the price of goods paid by society. It is society for whose benefit, in the last analysis, the risks of modern mechanical industry are incurred. Therefore it is only just to society, as well as to the workman, to thus transfer the burden. The practical method for transferring the cost of accidents to society at large, as consumer, is simply to require that in every accident not caused by wilful misconduct of workers the employer shall pay to the injured workman or his dependents a fixed compensation based on the economic loss of the latter, the employer recouping himself by inclusion of such expense, like any other of the costs of production, in the price of the market product, this requirement of the individual em-

ployer being possibly supplemented, in order to make its fulfilment secure against his possible inability to pay, by obligatory insurance of employers against their liability to pay compensation.

Such is the alternative to which justice and social expediency point as the way of escape from the present intolerable situation, a way out which would not only do justice to the 85 per cent of injured workmen who have no possible chance at present of securing compensation at law, which is the main thing, but which it could easily be shown, did time permit, would do better justice to the other 15 per cent who now have some legal chance for recovery.

But passing over such detailed comparison of workmen's compensation with employers' liability, the prime question of practicability for New York State remains to be briefly considered. Fortunately as to the general question of the practicability of compulsory compensation for all accidents under modern industrial conditions, there is no necessity for discussion. The best test of practicability is experience and this test has been applied, for years in most cases, in nearly every other modern industrial country except the United States. Of such European nations only Switzerland now stands in the same class with us. Great Britain, whence our common law of liability came direct and whose industrial conditions most nearly resemble ours, abandoned that old law for the compensation system in 1897 for factories, mines, railways and large construction work, after two years extended it to agriculture and two years ago further extended it to mercantile establishments, shipping and domestic service and also extended it so as to cover certain trade diseases as well as accidents.

What then is there to hinder the adoption by New York State of a workmen's compensation act, which, like the English law, should require employers to pay every employee injured by accident "not attributable to his serious and wilful misconduct" one-half wages during his disability or in case of his death a sum equal to three years' wages

to his dependents, with a certain fixed maximum in each case, those in the English law being in round numbers, $5 for the weekly allowance and $1,500 for fatal accidents? In the light of European experience there is only one question to be raised here before a negative answer is inescapable, and that is: Could employers in this state bear the expense which would be involved without being unduly handicapped in competition with those in neighboring states not required to pay such compensation?

On this point two things are to be considered. In the first place, it is by no means certain that the cost of a compensation system similar to that of Great Britain would be much, if any, greater than the cost of present legal liability plus such voluntary compensation as now exists. On the contrary it probably would not. This belief that a compensation system would be little, or no, more expensive to employers in the long run than the present liability or voluntary assistance system, is based principally on the great saving which would be made in the cost of litigation and could be made in the cost of insurance. A component part of compulsory compensation systems, the success of which has been proven by experience is the settlement by arbitration of all disputed points between employer and employee with almost no expense to either. In the matter of cost of insurance there is almost no comparison between the commercial companies in this country which sell liability insurance and the employers' associations which have been established in Europe to provide insurance under compensation acts. Such associations, in Germany, for example, in 1904 required only 13.5 per cent of their income for administrative expenses, paying the remainder to injured workmen, while in this state in 1905, of the premiums paid by employers for liability insurance over 68 per cent went to the insurance companies for their expenses or profits. With the same economy of administration as in Germany there would have been five times as much to go to injured workmen.

Absolute proof that the possible economies in the pres-

ent system would offset any additional expense which might be entailed by such a compensation scheme as that of Great Britain is out of the question, owing to the inadequacy of the existing statistics. The best statistical test of the question thus far made is one recently undertaken by the Wisconsin Bureau of Labor and Industrial Statistics, the results of which appear in Part I of the Thirteenth Biennial Report of that bureau, published as this paper was in preparation. An estimate therein, based on the experience of over 800 employers, and worked out carefully in every detail, leads to the conclusion that, "Assuming an economical administration of funds, the manufacturing establishments reported in the federal census of 1905 (for Wisconsin) could pay to every person incapacitated by an injury in the course of his employment in these establishments, regardless of negligence, the following scale of payments at a cost not greatly in advance of what the existing employers' liability premiums would amount to for these establishments at existing rates: in fatal cases three times the annual wages; in non-fatal cases, one-half wages during total disablement after the second week for one year, and an additional payment of $500 or less to those partly disabled for life according to the degree of such permanent disablement, and in addition first medical aid in all cases." This scale of compensation approximates very closely to that which was established by the English Compensation Act of 1897. Notice, too, that this estimate of what could be done reckons on present cost of liability insurance alone without considering what some employers now voluntarily pay in addition in the way of wages during disability, medical expenses or lump sums.

But in the second place, even allowing that compulsory compensation might impose a slight additional expense on employers in this state, it must be borne in mind that the problem in that case would only be the same that has always had to be faced in this country with reference to industrial reforms. Regulation of industry being left to the individual states, while competition is no respector of state

lines, every first step forward has had to be taken by some one state courageous enough to regard human life as of importance to society before dollars and cents. Child labor has always existed because it was cheap and the first states to restrict it undoubtedly laid an expense upon their employers of which those in other states were free. But does any one now dare to argue that those states made a mistake? On the contrary they stand rather in honor as having been pioneers of progress, and, what is equally significant. they have drawn other states after them, and it is only fair in a problem of this kind to give due regard to this tendency of reform to spread from one state to another.

Germany adopted compulsory compensation for accidents eleven years before any other country except Austria, and three years before Austria, and she not only was not ruined by the competition of her European neighbors but, largely as the result of her example, has seen the system established generally throughout Europe. The call to a similar role in this country comes now directly to the individual states, for the Federal Government has gone about as far as it can certainly go at present, in view of the recent decision on the railway employers' liability act of 1906. by passing this year a compensation act for government employees. To what state can the call be more urgent than to the foremost manufacturing state in the Union, which is New York State?

Survey. 26: 671-6. August 5, 1911.

Workmen's Compensation: Would the best System for general Welfare be Constitutional? Miles M. Dawson.

This citation of authorities on the constitutionality of a system to provide for workmen's compensation by federal tax levied upon employers, according to the hazard as a percentage of the pay roll, to be collected and disbursed by mutual associations of those contributing, rests upon the proposition that it would promote the general welfare of

the United States. That being taken as established, the three questions are:

1. Is the purpose constitutional and may the funds be disbursed for this purpose?

2. Is the form of the tax constitutional?

3. Is the machinery for collecting and disbursing it constitutional?

The preamble of the federal constitution declares that "We, the people of the United States ordain" it, among other purposes, to "promote the general welfare." The next and the last purpose enumerated is to "secure the blessings of liberty to ourselves and our posterity." The general welfare of the entire United States and all its people, not merely of the several states, was in contemplation. The Supreme Court, in McCulloch vs. Maryland, 17 U. S. (4 Wheaton), 316, pp. 402, 404, held that

> its powers are granted by them (*i. e.*, the people) and are to be exercised directly on them *and for their benefit.*

See also Martin vs. Hunter's Lessee, 14 U. S. (1 Wheaton), 304.

Article 1, section 8, of the constitution provides that taxes may be laid and collected "to pay the debts and provide for the common defense and general welfare of the United States." This is the only grant of power in the entire constitution which specifies as its object that "general welfare" to "promote" which it was ordained.

By the great preponderance of authority the taxing power is not restricted to the purpose of executing the so-called "enumerated powers of Congress," i. e., those vested in that body by the remaining paragraphs of article 1, section 8.

Mr. Justice Story in his Commentaries on the Constitution says of this:

> The same opinion has been maintained at different and distant times by many eminent statesmen. It was avowed and apparently acquiesced in, in the stated (state?) conventions called to ratify the constitution; and it has been, on various occasions, adopted by Congress, and may fairly be deemed that which the deliberate sense of a majority of the nation has at all times supported. This, too, seems to be the construction maintained by the Supreme Court of the United States.

In this Jefferson and Hamilton, though so widely apart on principles of constitutional construction, were absolutely in harmony, Jefferson saying in an official opinion:

> To lay taxes to provide for the general welfare of the United States is to lay taxes for the purpose of providing for the general welfare. For the laying of taxes is the power and the general welfare the purpose, for which the power is to be exercised. Congress are not to lay taxes ad libitum, for any purpose they please; but only to pay the debts, or provide for the welfare of the Union. In like manner they are not to do anything they please to provide for the general welfare, but only to lay taxes for that purpose.

and Hamilton in his report in 1791, as secretary of the treasury:

> It is, therefore, of necessity left to the discretion of the national legislature to pronounce upon the objects which concern the general welfare, and for which, under that description, an appropriation of money is requisite and proper. And there seems no room for a doubt that whatever concerns the general interests of learning, of agriculture, of manufactures, and of commerce, is within the sphere of the national councils, so far as regards an application of money. The only qualification of the generality of the phrase in question, which seems to be admissible, is this, that the object to which an appropriation of money is to be made must be general and not local, its operation extending in fact, or by possibility, throughout the Union, and not being confined to a particular spot. No objection ought to arise to this construction from a supposition that it would imply a power to do whatever else would appear to Congress conducive to the general welfare. A power to appropriate money with this latitude, which is granted in express terms, would not carry a power to do any other thing not authorized in the constitution, either expressly or by fair implication."

But one of the elder statesmen differed—Madison, who argued that appropriations not for the purposes of the "enumerated powers" are unconstitutional; i. e., for instance, that Congress has no power to give bounties; but he even held (4 Elliott's Debates, 2nd Phila. Ed., pp. 525 and 526) that a protective tariff is constitutional. Such a tariff the Supreme Court of the United States pronounced in Downs vs. United States, 187 U. S. 496, at 515, "like all protective duties, a bounty."

Monroe held with Jefferson and Hamilton in his message vetoing the Cumberland Road bill in 1822, and Jackson in his message vetoing the Maysville Turnpike bill in 1830.

The Supreme Court of the United States has repeatedly indicated its opinion that there are no limitations of the power "except those expressly stated" in the constitution. See McCray vs. United States, 195 U. S., 27, at 59; Flint vs

Stone Tracy Co., 220 U. S., 107, at 153; McCulloch vs. Maryland, 4 Wheaton, 316, at 431; Weston vs. City Council of Charleston, 27 U. S. (2 Peters), 449, at 466, in which last Chief Justice Marshall says:

If the right to impose the tax exists, it is a right which in its nature acknowledges no limits.

The words "general welfare" in the constitution have not been construed by the Supreme Court of the United States, except as that court declared in McCulloch vs. Maryland, already cited, that the powers of Congress are granted by the people and are to be exercised on them *"and for their benefit."*

Hamilton construed it broadly in the following, taken from the quotation already given:

And there seems no room for a doubt that whatever concerns the general interests of learning, of agriculture, of manufactures, and of commerce, is within the sphere of the national councils, so far as regards an application of money.

From the outset Congress has put upon it the construction that it has power to levy a tariff for protection; and in 1798 Congress enacted a statute, in force until 1884, requiring every seaman on an American ship to contribute to the support of marine hospitals. This is the nearest unabsolute analogy to a tax for the purpose here proposed. It was never contested in the courts, but represents the continuing view of Congress as to its powers, and has been impliedly recognized in several decisions of the courts.

State courts have often used the words "general welfare" or words of similar purport to support the exercise of police power and in such connection as to indicate that the welfare of the people was intended. Thus in Commonwealth vs. Alger, 7 Cush. (Mass.), 85,

the good and welfare of the commonwealth and of the subjects of the same:

in People vs. King, 110 N. Y., 418, "the peace, good order, health, morals, and general welfare of the community"; in C. B. & Q. Ry. Co. vs. Illinois, 200 U. S. 341,

the public convenience or the general prosperity, as well as regulations designed to promote the public health, the public morals, or the public safety;

in Barbier vs. Connolly, 113 U. S., 31,

increase the industries of the state, develop its resources, and add to its welfare and prosperity;

in Camfield vs. U. S., 167 U. S., 518,

> the safeguard of the public interests.

These are but a few of the many which might be quoted.

Congress, then, may promote the same "general welfare" by the exercise of its power to tax which states may promote by the exercise of the police power reserved to them. The state bank-note and oleomargarine decisions are also conclusive on this point. The special question remains, whether, even though for the "general welfare," a law providing such a tax would not be void as not for a "public purpose."

There is no provision in the constitution limiting taxes to "public purposes." If there be such further limitation, it must be by implication. In Savings & Loan Ass'n. vs. Topeka, 87 U. S., 656, at 664, the Supreme Court of the United States held:

> "We have established, we think, beyond cavil, that there can be no lawful tax which is not laid for a public purpose."

but it was speaking of a tax levied under a state constitution containing no authority for a tax "for the general welfare."

The decision is by some thought, however, to apply also to the federal power, because so general in its terms and adopting definitions of a tax taken from Webster's Dictionary and from Cooley on Constitutional Limitations, both including the idea of a public purpose. The Supreme Court of Missouri in Deal vs. Mississippi County, 107 Mo., 464, 14 L. R. A. 622, declared a bounty for tree planting unconstitutional under a provision that taxes should be laid for a public purpose only, and said:

> The principle announced by these authorities is not founded on or deduced from positive, affirmative, constitutional provisions, but on and from the limitation of the taxing power itself. Our constitution, therefore, on this subject is simply declaratory of the common law, and of general principles well recognized and almost of universal application.

Mr. Justice Miller, himself a member of the Supreme Court, indicated in his Lectures on the Constitution that the power of Congress to tax is more limited than that of a state, but assuredly not as to the powers expressly granted.

As already shown, the Supreme Court of the United

States in McCray vs. United States, has held to the contrary:

> The taxing power conferred by the constitution knows no limits except those expressly stated in that instrument.

Do not the very words, "for the general welfare," in the grant of power in effect declare "the general welfare" to be a "public purpose"? The Supreme Court of the United States in United States vs. R. R. Co., 84 U. S. (17 Wall), 322, at 326, has held:

> a tax is understood to be a charge or pecuniary burden for the support of the government,

but since one of the declared purposes in founding the national government was "to promote the general welfare," the government is, of course, to be supported in doing this.

Were the restriction to a "public purpose" held to be implied and to limit the language "for the general welfare," such taxation as is here proposed is still within the scope of "public purposes." See Cooley on Taxation. 2nd ed., page 124:

> The support of paupers and the giving of assistance to those who, by reason of age, infirmity, or disability are likely to become such is, by the practice and common consent of civilized countries, a public purpose.

For a further discussion of the subject, see the third edition of this valuable work, Vol. 1, pp. 185 and 187.

It may be objected that these are insurance premiums in the form of taxes; but that the cost could be paid in insurance premiums does not render it unconstitutional to levy a tax for the purpose if "for the general welfare." Noble State Bank vs. Haskell, 219 U. S., 104, at 110 and 111 and 575. 580; also the concurring opinion of Cullen, C. J., in Ives vs. South Buffalo Ry. Co., 201 N. Y., 271, at 320. The *obiter dictum* in the opinion of the court in the last-mentioned at page 296, that a special tax upon a particular industry

> for the support of hospitals and other charitable institutions upon the theory that they are devoted largely to the alleviation of ills primarily due to his business

would not be constitutional, does not affect this, as that issue was not before the court. The contrary was held in State vs. Cassidy, 22 Minn., 312, sustaining a tax upon

saloon-keepers to support an asylum for inebriates. See also Charlotte Ry. Co. vs. Gibbes, 27 S. C., 385, 142 U. S., 386; Consol. Coal Co. vs. Illinois, 185 U. S., 207; People vs. Squire, 145 U. S., 175; Trustees Exempt Firemen's Fund vs. Roome, 93 N. Y., 313, in which, of the support of volunteer firemen disabled by accident, disease, or age, and their families, it was said,

it aimed to accomplish a public purpose;

and also Matter of Shattuck, 193 N. Y., 446, setting forth

the quite universal rule that charitable uses and public uses are synonymous.

The highest courts of Michigan, Ohio, and Kentucky have upheld laws levying a tax upon dogs to remunerate owners of sheep destroyed by dogs, as a legitimate exercise of the police power. In the first of these cases, Van Horn vs. People, 46 Mich. 183, 41 Am. Rep. 159, 9 N. W., 246, the Supreme Court of Michigan also said:

As the charge laid upon the owners of dogs is a pecuniary burden imposed by public authority, it partakes no doubt of the character of a tax and for many purposes might be so spoken of without harm.

This decision was followed in a line of cases collected in a note, 17 L. R. A. (N. S.) 885. The Court of Appeals of Kentucky sustained a similar tax upon the same ground, but also under the power to levy taxes, though the state constitution strictly restricts taxes to public purposes. The court said:

If the whole state may be taxed for the purpose of maintaining a state fair to exhibit the various agricultural pursuits, we are unable to see why it may not be taxed to prevent the destruction of sheep by dogs.

This court fully recognized the insurance character of this tax, saying that it required that

the owners of them shall pay a tax, the proceeds of which *will insure* sheep raisers against the effect of their ravages.

The argument of the court was that it was certainly reasonable

if protection is to be had at all, that each owner of a dog should be required to contribute a small amount to a common fund dedicated to the remuneration of owners of sheep killed by unknown dogs.

basing its opinion also in part upon the impossibility of ascertaining "the owner of the dog committing the ravage."

In a dissenting opinion in that case, it was argued that it is not

> a valid exercise of the police power

to make

> all of one class of property holders pay the losses incurred in a private business by another class because this loss has been occasioned by the property of some of the first class.

This precise contention was advanced by counsel in Noble State Bank vs. Haskell, 219 U. S., 104, which decision at pages 110 and 111 disposes of it fully and finally, holding:

> Nevertheless, notwithstanding the logical form of the objection, there are more powerful considerations on the other side. In the first place it is established by a series of cases that an ulterior public advantage may justify a comparatively insignificant taking of private property for what, in its immediate purpose, is a private use.

In denying a rehearing, 219 U. S. 575, the court says that the decisions referred to by it

> were cited to establish not that property might be taken for a private use, but that, among the public uses for which it might be taken, were some which, if looked at only in their immediate aspect, according to the proximate effect of the taking, might seem to be private.

It may be argued that, since these were sustained under the police power, all being as to the constitutionality of certain state laws, they would not apply to the proposed exercise of the taxing power.

The accomplishment of police power regulations by means of taxation was involved in Edye vs. Robertson, 112 U. S., 580, upholding a tax of 50 cents per passenger on ship-owners, and the question of the right so to employ it, even when Congress could not have acted under the police power directly, was set at rest in the decisions on the state bank-note tax and the oleomargarine tax.

Mr. Justice Story, in his Commentaries on the Constitution says that

> the power to lay taxes is not by the constitution confined to purposes of revenue. In point of fact it has never been limited to such purposes by Congress; and all the great functionaries of the government have constantly maintained the doctrine that it was not constitutionally so limited.

Regarding the power to appropriate the taxes to the purposes for which collected, as stated, Madison was of the opinion that Congress had no power to give bounties. A

similar opinion has been expressed by the Court of Appeals of the District of Columbia in United States, ex rel. Miles Planting & Mfg. Co. vs. Carlisle. 5 App. Cas. (D. C.) 138, holding the sugar bounty invalid on the ground that the appropriation was "for a private purpose." This was based in part upon inferences from Mr. Justice Miller's Lectures on the Constitution.

The Supreme Court of the United States, however, has had this question twice before it, in Field vs. Clark, 143 U. S., 649, and United States vs. Realty Co., 163 U. S., 433, both of which were decided on other grounds without indicating that it deemed the bounties unconstitutional, as it might have done.

In Willoughby on the Constitution, page 588, the opinion is expressed that

> the doctrine has become an established one that Congress may appropriate money in aid of matters which the Federal Government is not constitutionally able to administer and regulate,

relying upon decisions already cited and the views of President Monroe and President Jackson already referred to.

Bounties have been voted and paid by the government from the earliest days. Senator Daniel, 21 Congressional Record, part 3, 2295, cited in 1890 about forty instances, thirty-three being for the relief of sufferers by fire, earthquake, Indian depredations, overflow of the Mississippi and Ohio rivers, cyclones, yellow fever, grasshoppers, lack of seed by failure of crops, or from accidents at arsenals.

Mr. Justice Story in his work on the Constitution after an exhaustive review of authorities concludes as to the power of Congress, having collected taxes "for the general welfare", to appropriate the same for any purpose that is plainly such, as follows:

> The controversy is virtually at an end if it is once admitted that the words "to provide for the common defense and general welfare" are a part and qualification of the power to lay taxes; for then Congress has certainly a right to appropriate money to any purposes, or in any manner, conducive to those ends.

See also the opinions of Jefferson and Hamilton already quoted. Also the reasoning of the Supreme Court of the

United States in United States vs. Realty Co., 163 U. S. 427 at 440:

Having power to raise money for that purpose it of course follows that it has power when the money is raised to appropriate it to the same object.

It must also be considered whether the form of the tax is constitutional. Cooley on Constitutional Limitations defines a tax "upon licenses to pursue certain occupations" as an excise, which definition was adopted by the Supreme Court of the United States in Flint vs. Stone Tracy Co., 220 U. S., 207, following Thomas vs. United States, 192 U. S., 363.

Such a tax would not be void as not "uniform throughout the United States." It would be uniform upon employers everywhere, the hazard being the same. The provision of Art. I, Sec. 8, requiring indirect taxes to be "uniform throughout the United States," has been held by the Supreme Court of the United States in Knowlton vs. Moore, 178 U. S.. 41, at 106, to signify not

an intrinsic but simply a geographical uniformity.

See also Head Money Cases, Edye vs. Robertson, and Flint vs. Stone Tracy Co., already cited.

It would also be constitutional to make a general appropriation of all the proceeds of these taxes in the original law itself. See Edye vs. Robertson, 112 U. S. 580, at 599.

The sole remaining question is as to the power of Congress to set up mutual associations for the purpose of collecting and disbursing these taxes. Congress may set up such governmental agencies as it deems wise and proper for these purposes, as, for instance, it did when it levied the tax upon seamen for the support of marine hospitals.

This has repeatedly been held in the state courts, as in Hager vs. Kentucky Children's Home Society, 67 L. R. A., 815; by the Court of Appeals of Kentucky, in State, ex rel. St. Louis vs. Seibert, 123 Mo. 424; Shepherd's Fold of Protestant Church vs. New York, 96 N. Y. 137; Trustees Exempt Firemen's Benevolent Fund vs. Rome, 93 N. Y. 313; People vs. Brooklyn Cooperage Co., 187 N. Y., 142; Board of Underwriters vs. Whipple, 2 App. Div. (N. Y.) 361.

Associations so set up are called in the New York decisions "subordinate governmental agencies" and the only limitation upon the character of such agencies is set forth in Fox vs. Mohawk & Hudson River Humane Soc., 165 N. Y., 517, at 528, holding that an association whose membership "may be accorded or withheld at its pleasure, and the management of the corporation and the selection of its officers is wholly vested in the corporators" would not be a proper "subordinate governmental agency." Obviously this would have no application to such associations as are here proposed; they would be entirely under the control of Congress.

In the famous decision of McCulloch vs. Maryland, already cited, Chief Justice Marshall, upholding the establishment of the United States Bank, said:

> A bank is a proper and suitable instrument to assist the operations of the government in the collection and disbursement of the revenue; in the occasional anticipations of taxes ad imposts; and in the regulation of the actual currency, as being a part of the trade and exchange between the states. It is not for this court to decide whether a bank, or such a bank as this, be the best possible means to aid these purposes of government. Such topics must be left to that discussion which belongs to them in the two houses of Congress. Here, the only question is, whether a bank, in its known and ordinary operations, is capable of being so connected with the finances and revenues of the government as to be fairly within the discretion of Congress when selecting means and instruments to execute its powers and perform its duties. * * * Congress has duties to perform and powers to execute. It has a right to the means by which these duties can be properly and most usefully performed and these powers executed. Among other means, it has established a bank, and before the act establishing it can be pronounced unconstitutional and void, it must be shown that a bank has no fair connection with the execution of any power or duty of the national government, and that its creation is consequently a manifest usurpation.

The associations here proposed being **solely** for the execution of the power to lay and collect taxes for the general welfare and to disburse the avails thereof for that purpose, this expression of the highest court of the United States appears to be determining as to their constitutionality.

Survey. 27: 1015-6. October 21, 1911.

Washington's "Yes" to New York's "No."

The Supreme Court of a second state of the union has declared itself on the constitutionality of workmen's compensation. This decision was given by the highest bench of Washington on September 27, and is favorable. It is the result of a test case brought by a supply house against the state auditor to secure payment for a table furnished the Industrial Insurance Department. Judge Fullerton, who writes the opinion, states that in spite of their dissimilarity in form the principles embodied in the New York and the Washington acts are similar. He offers no direct criticism of the adverse decision rendered by the New York court last winter, but says that

> notwithstanding the decision comes from the highest court of the first state of the union and is supported by a most persuasive argument, we have not been able to yield our consent to the views there taken.

The four grounds on which the constitutionality of the act was challenged were that it violates the constitutional provisions that no person shall be deprived of life, liberty, or property without due process of law; that no law shall be passed granting to any individual or class rights not belonging to all; that no individual shall be deprived of the right of jury trial and that all taxation shall be equal and uniform and based upon the money value of property. With the exception of this last objection, the arguments brought in the Washington case would apply to compulsory compensation equally with compulsory insurance. The first of these four considerations was, it will be remembered, the basis of the decision against the New York law. To offset the decision of the New York court the Washington court finds and quotes from

> many statutes held constitutional by the courts where liability is created without fault and where the property of one person is taken to pay the obligations of another, with no compensation to the person whose property is thus taken.

Among these may be cited the Oklahoma Banking Law (Noble State Bank vs. Haskell) and the tax against owners

of saloons to recompense for losses of property due to intoxication (Delfel vs. Hanson, 2 Wash. 194). The justification for such legislation Judge Fullerton finds in the police power, which he defines as the "power to govern," and he believes that the clause of the constitution quoted against the law cannot hold good against any regulation by this governing power which is reasonable and not arbitrary or capricious. The statute in question has to his mind this attribute of reasonableness—a reasonableness, it will be remembered, acknowledged by the New York court to be grounded on sound economic and moral principles—and should, he holds, therefore stand.

The police power also, the court holds, covers the second objection that the statute embodies class legislation. The limitations imposed on this power, says Judge Fullerton's opinion, allow of a wide discretion in this respect, one of its distinctive functions being to protect the community at large from certain businesses, for instance that of the ragman, or to protect the workers in a business from the dangers inherent therein, by such regulations as the fixing of hours and the prescribing of safety regulations. Going further, he holds that the assigning of the funds collected for a definite class of workmen is entirely in conformity with many state and federal precedents held constitutional by the courts, such as the federal law that shipowners must contribute to a fund for a hospital for seamen, or the Kentucky laws establishing a license fund for dogs, to be used to compensate sheep owners for the loss of their sheep.

With the same argument of the police power the third contention is met, the court holding that the employe may be obligated to accept the conditions of the statute even when they involve the withdrawal of the right of jury trial. Judge Fullerton acknowledges that there is no direct judicial authority for this contention but holds that as the state may make it a condition of employment that a man may not be allowed to work more than ten hours a day, so it may force the acceptance of a fixed indemnity for accident as a condition of employment in a certain industry.

The final objection, that the insurance premium provided for by the Washington law is a tax and violates the constitutional provision that taxation shall be equal and uniform, the court meets by the argument that the imposition is not a tax in the ordinary sense of the word as no accession to the public revenue is authorized or aimed at. The fund is to be used not to meet the current expenses of government but to recompense employes for injuries sustained at work. It is in reality, the court holds, not a tax but a license fee, and the decision cites many federal and state decisions on analogous license laws to sustain its holding that such a fee is not inimical to either state or federal constitutions.

The Washington decision is unanimous, though Judge Chadwick in his concurring opinion feels that question of the right of jury trial should not have been decided in the abstract, but left to such time as some employer aggrieved at the operation of the law or some injured workman deprived of his right of jury trial brings a case which could pass for final hearing, on the federal questions involved, to the Supreme Court of the United States. With the conclusions of the court on the other three propositions Justice Chadwick agrees.

Survey. 28: 243-4. May 4, 1912.

Reasons for Trying Workmen's Compensation.

Adelbert Moot.

There are many strong reasons for trying workmen's compensation, rather than compulsory insurance, as a legal measure of the damages caused by industrial accidents. A few may be thus stated:

Germany has tried compulsory insurance for more than thirty years, under more favorable conditions than we can hope for in this country, and yet the most earnest discussion is now going on in that country over its success or comparative failure. That compulsory insurance is a great im-

provement upon our own antiquated negligence common law is not to be denied. But after several years' trial, in 1888 its financial burdens were 78,241,023 marks, while in 1899, or only eleven years later, those financial burdens had doubled, and doubled, and doubled again; in other words, had grown to 767,428,904 marks. Nor did even this amount produce peace and contentment among the beneficiaries, for in 1909, out of 422,076 awards, there grew 76,352 appeals. So, too, in 1898 there were only 4,563 appeals for causes that gave rise to 37,422 appeals in 1910. This increase in appeals is partly explained as due to substituting lump sum awards for continuing pensions. Another partial explanation is that pensions were "too liberally granted," but if such was the case in stringent Germany, what would happen in this country in cases where the victim could bring a "pull" to bear in favor of his demand for a pension?

In Ohio we are told that premiums, as fixed by the state officials, have a wide range. That range gives those manufacturers having a "pull" a great chance with political officials. That range is, for example, from 35 cents to $15 per $100 in wages in textile manufactures; from 95 cents to $21.20 in metals; and from $2.20 to $29.80 in ore and coal handling.

With a board made up of political appointees, such as some governors of some states are sure to appoint, without experience in either business or insurance, and such a wide range of premiums, what is to become of business? Where will the little business concern, without experience or influence, come out, in competition with a big and influential competitor? Will not the shop of the big concern be found safe and get a low premium, where the little one will be found unsafe, whether really so or not, and so get a maximum premium? And if not, is it not clear that risky business must leave the state, because it cannot pay any such maximum premiums and live? Life and limb are more than business, but if the workman cannot get work and must see his family starve, is he better off than he would be to have work to support them, at some risk of life and limb? In Germany it is said the expense ranges from 1 to 4.5 per

cent of the cost of production; but we cannot see how the Ohio premiums in risky business could produce any such results. Those premiums seem to be prohibitive in risky business. The truth is that in Germany, with politics excluded, and experts included, there has been prosperity under compulsory insurance, just as there has been prosperity in England under workmen's compensation. That compulsory insurance is not so well adapted to free government, is seen, however, from the struggles of France with compulsory insurance; for as to France it is explained that the trouble is due to her "too liberal tribunals." That "malingering," and "wholesale dissimulation," have compelled Germany to recently amend her law to cut out "minor accidents," and avoid so many "battles for pensions" by a "clean up" with lump sum awards, shows that all is not as bright as painted; also a tendency towards the principle of workmen's compensation, not compulsory insurance, even in Germany.

The attempts of Ohio, Washington, and Massachusetts, to adapt the compulsory insurance system of Germany to this country, seem unsatisfactory. We want to keep away from bureaus, centralized government, politics, and political pulls, and, therefore, despite the fact that no workmen's compensation act is perfect, we will do better to follow England and our own states with workmen's compensation acts. The proposed federal workmen's compensation act, if made applicable to all interstate industries employing many persons, would be a suggestive model for such an act for the states, as to intrastate industries.

Survey. 28: 239-40. May 4, 1912.

Workmen's Compensation for the United States.

Henry R. Seager.

For the United States, the system of compensation, as distinguished from the system of employers' liability, is still novel, and any plan that may be introduced must be

viewed as an experiment. For this reason I am inclined to believe that at the outset a system of simple compensation without any insurance requirement will be found to be best suited to American conditions in our eastern states. A system of compulsory insurance through employers' associations could not be made effective under state law as regards many industries, because often the employers who should be included are not found within the borders of a single state. Again, American employers have made such unequal progress in their efforts to cope with the problem of preventing accidents, and in their policies with reference to compensating accidents, that to force them to join together in associations would be viewed by employers themselves as unfair. The efficiency of the German accident insurance associations has been due to the fact that they embrace all employers in the same industry within the German Empire, and that the requirement that German employers belong to such associations is along the line of similar requirements which the German government imposes on employers in other connections; it harmonizes with the temper and habits of German business men. Exactly the same plan would, in my judgment, be quite out of harmony with the temper and habits of American business men. The same considerations apply even more strongly to compulsory state insurance.

One of the most serious accidents that has happened in the state of Washington since the insurance system came into operation was the blowing up of a small powder mill controlled by an independent company. Under the Washington system, all powder mills in the state must contribute pro rata to the compensation of the victims of this accident. The owners of other powder mills contend that with the greater care which they devote to the problem of accident prevention such a disaster could not have happened in their mills, and on this ground they are contesting the validity of the Washington law as taking their property without due process of law. Notwithstanding that the law has been sustained by the Supreme Court of Washington, it is still

possible that on this state of facts the United States Supreme Court may declare the Washington act invalid.

As this illustration brings out, the weakness of state insurance, as usually administered, is that it fails to give the careful employer the benefit of the reduced ratio of accidents in his own plant that results from his care. Along with careless employers in the same industry, he is required to contribute to a common fund, out of which compensation to all those injured in the industry is paid, in proportion to his pay-roll. Such a policy discourages efforts at accident prevention on the part of the individual employer, and is highly unfortunate because, after all, the surest means of reducing accidents is the incentive which the compensation system gives the individual employer to do everything in his power in this direction. It may of course be urged that this is not a necessary condition of a state insurance system. As the German insurance associations vary the rate according to the accident record of each individual employer, rewarding the careful employer with a lower rate and penalizing the careless employer by a higher rate, so it may be said a state insurance department may vary its rates. The difficulty here is that the mere suggestion that rates may be shaded for the benefit of individual employers at the discretion of the state insurance department would in any American community, give rise to charges of favoritism and suspicions of graft that would go far to neutralize any benefits that might result from variable rates.

These disadvantages connected with compulsory insurance may and doubtless will in time be overcome. My contention is that because of them the first step in the development of a wise compensation system for the United States should be simple compensation like that proposed in the bill now before Congress. As a result of experience of a simple compensation system supplemented by optional insurance, public opinion will, I believe, be educated to demand the next step, that is, certain provision through compulsory insurance or otherwise for the victims of accidents of employers who may become insolvent. I am quite willing to go

further and assert that, in the end, a system of state controlled insurance will probably prove on the whole best. I should, however, look with a good deal of misgiving on the introduction of a system of compulsory state insurance in our own state of New York under present political conditions.

Survey. 28: 247-8. May 4, 1912.

Dr. Friedensburg's Arraignment of the German Workingmen's Insurance System. Henry L. Slobodin.

"Is that all?" one asks after perusing Dr. Friedensburg's arraignment of the German workingmen's insurance system. Even this severest critic did not dare to condemn the German plan as a whole; nor directly, or by inference, express a preference for the English or any other plan. It is obvious that even in Dr. Friedensburg's mind the question is no more debatable. The German system is beyond comparison and has come to stay.

Dr. Friedensburg's strictures cannot be viewed as serious criticism. They produce in one the impression of petulant fault-finding. Why do workingmen try to get more than they are legally entitled to? Why is the insurance office administered in the spirit of benevolence rather than law? Why do the workingmen continue to be ungrateful and discontented? Why has insurance failed to eradicate socialism? Why do the sanitaria, some of which are actually under the control of the socialists, treat the workingmen with unheard-of humanity?

The socialists, far from denying all this, are shamelessly rejoicing that this is so. They are grateful to Dr. Friedensburg for confirming their own views as to how state insurance will pan out. The German system meets the biggest argument against state ownership, namely, that state dependents will be subservient tools of the government or politicians. Dr. Friedensburg learned that the comfort offered to the workingmen in a sanitarium arouses their discontent

with the conditions outside. Nothing better could be said in favor of those institutions. Let the workingmen open their eyes and see that there are plenty of good things in this world which all of them could enjoy under a rational economic system.

Why! exclaims Dr. Friedensburg in horror. You will make a nation of shirkers!

Tut, tut, dear doctor. The workingmen will do their share of the nation's work, if only you and yours will do your share. However, the socialists admit that shirking work is bad and anti-social. But what can you expect in a system where enjoying an income in idleness is considered creditable and honored?

State insurance is so obviously superior to any other plan that it will have to be adopted eventually, no matter what else is tried. There is one substantial objection to state insurance,—the private liability companies. The question of constitutionality is of much less importance for us than some would think. The liability companies prefer the compensation act to state insurance. And they will have no difficulty in bringing the courts about to see "the light of reason."

Survey. 28: 248-9. May 4, 1912.

Difference Between the English and German Systems of Workmen's Compensation. F. C. Schwedtman.

The basic difference between the English and German workmen's compensation systems is, that under the English scheme the burden of compensation for injuries is thrown upon the individual employer and made a feature of his individual relationship with his employes. Under the German scheme individual responsibility is eliminated and the burden of compensation is solved by compulsory insurance.

Experts of all European nations, including England, assembled in Rome in 1908 and again at The Hague in 1910 recognized officially "compulsory insurance" as the best and

most efficient means of reducing human and economic loss from work-accidents, sickness, and invalidity. During my European investigation I found a general pessimism and dissatisfaction among Englishmen with their scheme, and general optimism and satisfaction among Germans with their system.

Lloyd-George's national insurance bill, which was passed recently by the British parliament, is suggestive of an intended nucleus for a general system of compulsory insurance which will ultimately displace the present English system. Speaking of this recent English act the *Bulletin Des Assurances Sociales* says: "Here is Bismarck out-Bismarcked and Mr. Lloyd-George has gone farther than the first initiator of German workers' insurance."

An analysis of German accident insurance expenditures for 1908 shows 77¾ per cent of the total expenditures paid to injured workers or their dependents; 9¼ per cent for reserve fund; 7¼ per cent for management; 2¾ per cent for investigations; 1¼ per cent for litigation; 1¾ per cent for prevention activities, etc. Such efficiency is entirely unknown in the United States or in England, and especially are the legal expenditures of 1¼ per cent remarkably low.

I saw accident prevention practiced more generally and systematically under the German scheme than under the English law. An English commission, consisting of members of the Labor Party and trade union commission, says, after a visit to Germany, in its official report: "One effect of all this . . . organization is to prevent the hideous open social sores, with which we in Great Britain are so familiar. There are certainly poor in Germany . . . but there are few so utterly broken on the wheel of misfortune as those who are allowed with us to wander about, parading their sores and propagating their kind. . . . Germany, individually and collectively, is realizing itself and organizing itself. . . . We are convinced that it is having considerable effect at present in increasing the productive efficiency of the nation."

Professor Edouard Fuster of Paris, one of the greatest international experts upon this subject, says: "The money

which Germany is devoting to social insurance reappears in a thousand forms. It promotes happiness of the family, health, and self-respect. It makes for a strong, enduring nation and for international supremacy."

Dr. Paul Kaufman, president of the German Imperial Insurance Department, writes me as follows:

"It is not an accident that the unprecedented expansion of German commerce and industry has happened concurrently with thorough-going improvement in the condition of workers. There is a close connection between the two events. The successful handling of the labor problem by means of social insurance is one of the strongest factors in Germany's constantly growing industrial progress."

Dr. Spiecker, president of the Siemens and Halske Company of Berlin, writes me as follows:

"It is perfectly evident today that we have secured higher efficiency in our industries due to increased workers' efficiency, all brought about by relieving our workers from worry and distress, due to sickness, injury, and superannuation."

Dr. Zacher, director of the Imperial Statistical Department, who is honored and respected internationally as probably no other German expert, wrote me nearly a year ago:

"His [Dr. Friedensburg's] statements must not be taken too seriously. He has been generally known, even during his active connections with the Imperial Insurance Department, as the solitary advocate of extreme tendencies. His articles show an unwarranted tendency to condemn a great national social insurance system on account of a few trifling shortcomings in some of its details."

A clipping from a recent issue of *Neue Politische Correspondenz Berlin* reads, translated, as follows:

"It is proper to call attention to the fact that Friedensburg's statements are in many directions incorrect and make individual shortcomings appear general to an unwarranted degree. As a whole Dr. Friedensburg's statements give a wrong picture of the results of German workers' insurance and are, therefore, unfitted to inform foreign countries ac-

curately and conclusively concerning German workers' insurance system."

Let me say in conclusion that we cannot and will not transplant either the English or the German scheme as a whole, but we must study all foreign systems and translate their best features into American ways of thinking and doing things. This alone will give us a system in keeping with the institutions and the traditions of the United States.

American Journal of Sociology. 17: 177-87. September, 1911.

German Workingmen's Insurance and Foreign Countries.

Georg Zacher.

Looking over the previous development of German workingmen's insurance, it is desirable to present in this journal the international standpoint, and to sketch the manifold relations between the German workingmen's insurance and foreign countries.

First of all the question is urged, How far have the objections which other countries, both formerly and at present, have brought against the bold enterprise of Germany been removed or confirmed by the actual development?

If we follow, in the previous discussions in journals, and in the acts of the international workingmen's insurance congresses, the history of the foreign workingmen's insurance legislation, it appears that a principal hindrance to imitating the German example consistently is almost everywhere the fear of a financial burden; that is, a strain upon the industrial capacity of the various occupations, and consequently a disadvantage in international competition between nations. This fear has been skilfully used by the opponents on principle of every form of social legislation, even apart from compulsory insurance. The wider the circles of German workingmen's insurance extended and the greater the annual expense of millions for indemnities and capital reserves increased, the more these opponents referred to the danger

of the assessment methods of the German accident insurance, and the billions required by invalid and old-age, not to mention orphan and widow, insurance in their own countries. The parliamentary reports of all European states which have considered such projects of law contain only too much material on the subject.

What is the teaching of actual trial?

In the field of accident insurance, not in Germany, but in those countries which did not follow the German examples, financial and technical insurance problems have arisen, and this because they were compelled to throw overboard premium rates and calculations of payments which had no adequate basis, and which, therefore, proved false in the tests of practice. In this connection reference may be made to the failure of the technical insurance figures of the Austrian, Norwegian, and Holland accident insurance, of the experimental premium tables of the French, Belgian, and English private insurance societies, and others. On the contrary, the German accident insurance was free from these mistakes; has developed normally, and enjoys increasing recognition abroad.[1] The best proof of this is that the insurance plans copied after those of the German trade-insurance associations, as of late in England and France, have manifestly worked with advantage; and that in the United States of America, which now is thoroughly interested in these questions, the approval of the German example seems to be gaining ground, not merely on account of the *simplicity* and *economy* of the whole system, but also because of its superiority in the important field of accident *prevention*.

In reference to the invalid and old-age insurance we may learn from the proceedings of the last International Social Insurance Congress at Rome, in 1908, especially in the confessions of Luzzatti and Mabilleau, and from the thirty years of previous history of the French law of April 10, 1910, that in this field thorough success without compulsion to insure cannot be assured. On the other hand, German experience shows that the fantastic milliard calculations of

opponents could practically be met, and that the capital collected to pay claims as they fall due was not only not a danger for the public welfare, but in reality an unending blessing; as has been shown by persons free from bias.

Has this entire burden of the German people, by its social insurance, become a hindrance to national progress, and to the capacity for competition in international trade—as has been asserted in the past and is still sometimes claimed? Here also the facts may speak for themselves.

It is precisely in the last quarter of a century, under the regime of social legislation, that Germany has increased its population from forty-six to sixty-five millions, now about at the rate of one million each year; and has advanced from the fourth to the second place in the world's trade; and now, with its seventeen billion marks of foreign trade, is behind the British Empire by only a few billions.

The property of the people at the same time has doubled in value, and at present is reasonably estimated to be about two hundred and fifty billions. The annual income of the people is about thirty billions of marks. There are about eighteen million savings-bank accounts with annual deposits of three-fourths of a billion, and property which has risen in value from two billions in 1875 to fourteen billions. In this improvement the workingmen, the majority of the nation, have an increasing share. The wages, as proved by social-insurance statistics and expert investigations (for example, Schmoller, Dade, Calwer, Kuczynski, Ashley, etc.), since the introduction of the imperial workingmen's insurance laws, have risen, on the average, for unskilled workmen about 25 per cent., and for skilled workmen about 50 per cent, and in certain trades even 100 per cent. And this increase of wages, which, according to Professor Ashley, has not been attained in any other country, has by no means been counteracted by the increase of cost of means of subsistence, even according to the judgment of social-democratic leaders and scientific journals. According to household budgets and statistics, the expenditures for the means of subsistence, on the average, require only half the income. The con-

sumption of the necessary means of subsistence has steadily increased, the use of meat remaining only a little below that of the English population; so that the living conditions of German workmen, as an English commission has abundantly proved, have improved in all directions. Furthermore, the statistics of taxes show that the number of persons with taxable property has increased; and that, in agreement with this fact, the wage statistics of this great sickness-insurance funds, and the accounts of the sale of stamps for the invalid-insurance funds show an ascent of insured persons up from the group of low-paid workers to that of the more highly paid wage-earners (cf. *Reichs-Arbeitsblatt*). To all this we must add that the figures relating to unemployment are lowest in Germany; that emigration, which was so great in the decade 1880-90, has almost ceased; that, on the other hand, Germany of late needs almost a million foreign workmen in order to cover the needs of manufactures and agriculture (cf. Dade). But it is not merely in material advance that the majority of the people have shared. According to the most recent publications the apparent longevity rose from 38.1 to 48.85 years for males and from 42.5 to 54.9 years for women; the general rate of mortality has diminished considerably; mortality from tuberculosis has fallen nearly one-half, so that there is ground for hope that this dangerous plague, within a reasonable time, will come under control—a hope whose fulfilment could hardly be expected without the powerful organization of social insurance. To all this we add the consideration, that social insurance, with its curative and preventive measures, offers advantages annually to millions of workmen and their families. Thereby not only the vast number of workers of the nation is maintained, but their vital energy is also greatly augmented by popular hygienic education. Thus we can explain why, in spite of the rapid development of German manufactures, both the number and physical condition of recruits show an upward tendency.

If we put together all these considerations, we can claim, in opposition to the assertion mentioned above, that social

insurance has been a co-operating cause of the unexampled advance of Germany. In the increasing recognition of these economic effects we may discover the explanation of the more rapid progress in similar legislation in other countries.

Another point at which foreigners have hesitated is the organization. They have criticized the enormous apparatus which requires a legion of officials, so complicated that it could not be kept in motion except in a country under a strictly military control like Germany. We have already explained how the threefold division of the German social insurance laws (sickness, accident, and invalid insurance), and the complex forms of organization, arose naturally out of the historical development. It has been possible to open new ways, while joining the new to existing arrangements, and utilizing them for the general purpose; and improvements are introduced in consequence of practical experiments. This has happened in the reform laws of the decade 1890 to 1900 (K. V. G. 1892, J. V. G. 1899, U. V. G. 1900), and will be further manifest in the new imperial insurance regulations.

Both reforms have left the foundations of the system unchanged. We have declined to admit any blending, or uniformity of organization; and this is the best proof that the German social insurance, in spite of the variety of forms, was built on sound principles, and that the various forms of organization had good reason for being, in the difference of the risks to be insured. Yet not a few of those who have had practical experience in administering the legislative measures believe that the purpose of these reforms would have been more easily and surely attained, if, even in the year 1895, the well-known reform propositions of Bödiker and his brilliant talent of organization of such insurance plans had been given a freer chance. But every reform of organization and administration finds all the stronger opposition where the particular organizations have been thoroughly established. This has been well shown in relation to the simplification and increased centralization of sickness insurance, and the two projects for the German Imperial In-

surance Regulations (April, 1909, and March, 1910) and of the reform propositions in Austria (December, 1904, and November 3, 1908).

Foreign countries may well be grateful to Germany for its many-sided pioneer labors. It has been made possible, without costly experiments, to utilize the practical applications; and they would do well to take into account, at the beginning, the ultimate good of the development and provide in good time for the reforms and extensions which will later be required.

Perhaps the most important objections against the "German system" abroad have been made on moral grounds. The charge was made that it weakens the sense of individual responsibility; that it intensifies the cupidity of the masses; that it demoralizes the working-people. Those objections were supported by reference to the continually rising costs of sickness insurance and of the sick-benefit funds, which have been exploited by the unemployed members who are in good health, and by reference to the increasing desire for pensions and the larger number of lawsuits for pensions.

The first reproach, that compulsory insurance undermines the sense of responsibility, the inclination to save, and the industrial efficiency and capacity for development of workers, can hardly be longer supported. The facts presented at the Congress at Rome (1908), and in statistical publications, do not favor this view. In any case it is better for the common welfare that the masses be educated by legal obligation to the fulfilment of their social duties than that they be left in lethargy and helplessness. The long experience of Germany, as compared with other countries, teaches that, on the average, the wage-earners are not able, without aid, to procure an adequate and sure support in cases of sickness, accident, invalidism, and old age; they need such a system as that of the German social-insurance laws, as well as the intellectual and financial co-operation of employers. If we desire to diminish and gradually to overcome the present social antagonism, we may look with hope to common effort on the humanitarian basis of social legislation, and to the

works of voluntary welfare-schemes which are closely connected with such legislation.

With good reason, the new imperial insurance ordinance, following the example of the invalid insurance and the Hungarian reform legislation, looks forward to an equal division of contributions and administrative rights of employees and employers in sickness insurance. Other considerations of economy and justice favor this measure. The division of premiums in the original law of 1883, according to which the employees paid two-thirds and the employers one-third, may have been appropriate to the simple industrial relations of that period, when the danger from general causes of illness seemed more important than the specific "occupational diseases" which have lately received more attention. At the present time, on the contrary, especially in consequence of the varied methods of chemical production, the development is in a different direction. Therefore, it would be unfair to lay the principal burden on the wage-earners, since the risks of these increasingly dangerous "occupational diseases" should be logically regarded as risks of the trade, like accidents. The indemnities should be regarded in the same light as those for accidents, as is already done in the Swiss and English legislation, and in the projects of law in France and Russia. This holds good, even although, after the period of sickness indemnity, the invalid insurance, if only inadequately, offers some relief. To this must be added the consideration that, with the equal division of sickness-insurance premiums, it is proposed in the imperial ordinance of insurance to extend the sickness insurance to all agricultural and household industries, etc., and provide insurance for widows and orphans of wage-earners without increasing the payments of workmen. The conflict over the question of insurance doctors might, perhaps, have been avoided, or have taken a milder form, if from the beginning there had been complete equality of representation of employers and employees in the committees on sickness insurance. It has been apparent that the "free choice of doctors" demanded by physicians might introduce serious difficulties in social

insurance in great cities and industrial centers, especially so long as preparation for this kind of medical service is not required by law. How little the legal introduction of "free choice of doctors" would relieve the economic need where the medical profession is crowded may be seen from the evidence presented at the congress at Rome and in the last international conference at The Hague (September, 1910).

In the field of accident insurance, the principle of equality, contrary to the view of Bismarck, has been broken down, to the extent that the wage-earners, in cases of decisions at the first hearing, as contrasted with both hearings in the higher courts, are excluded. This has produced two evils: on the one side the workingmen show great distrust of the employers' associations, in spite of the larger indemnities; and, on the other, the imperial insurance office, in contrast with the invalid-insurance office, for which it has merely powers of revision, having to decide appeals, is burdened with the re-examination of facts in disputes of little importance, and is unable to give full attention to its tasks as a supreme court. The imperial insurance ordinance seeks to overcome this error of the earlier legislation by making the first court (as an "insurance office") equally representative of both parties, as has already been done from the beginning by Austrian, Hungarian, and Luxemburg legislation; by clothing the intermediate court with greater powers of final decision as to facts, as a "superior insurance office," and by treating the imperial insurance office as the court of final revision for all branches of social insurance, including sickness insurance, which has not hitherto been in its jurisdiction. This overburdening of the imperial insurance office with annually increasing appeals in a gratuitous procedure, and the fact that, in spite of the benevolent legal decisions of the imperial insurance office, scarcely 1 per cent of the almost one-half million annual decisions of appeals from the employers' associations have been reversed—in itself a striking proof of their justice—are regarded abroad as certain evidence of the weakness of the German insurance system;

evidence, that is, of the disappearance of a sense of responsibility and justice of those who are obliged by law to insure, of the increasing unrest and eagerness to receive pensions on the part of those injured by accidents, of the abuse of the gratuitous procedure, and of the demoralization of the workingmen by unscrupulous shyster lawyers. The fact is often overlooked that a compulsory insurance, with nearly twenty-four million insured persons, must include many from the lower social classes; that, considering this vast number, the abuses mentioned are entirely exceptional; and that they might, perhaps, have been avoided if such regulations as the imperial ordinances of insurance now contain, and which would supply gratuitous official legal counsel for the benefit of the wage-earners, had been included in the original laws. In any case these evils can without difficulty be cured by better instruction of the persons interested, by elevating their plane of culture, by giving a hearing to the workmen in the court of first instance, by stricter management of the costs in case of appeals to litigation without cause, and by avoiding too generous awards by courts.

Incomparably greater dangers of a moral and financial kind may arise where neither compulsory insurance nor gratuitous judicial settlement exist; as may be seen in the experience with the English accident insurance. There the employers, from fear of the terrible costs of litigation, bring hardly 1 per cent of cases of industrial accidents before the courts. In most cases of litigation, when the activity of unscrupulous advocates and complaisant physicians is certain, they prefer to pay an injust compensation rather than run the risk of a suit.

In general, the acts of the international social insurance congresses, especially that of Rome in 1908, in connection with the twenty-five years of experience in Germany, have shown conclusively that without legal compulsion the social and economic purpose of a thorough social insurance cannot be attained; and that individual cases of abuses should not be given too great weight; they are simply passing and

by means unavoidable accompaniments of the great scheme. Such general human weakness may be observed also in the case of voluntary and all other kinds of insurance. The German principle, furthermore, is superior to the *liberté subsidiée* in this, that it involves both parties, workmen and employers, in the cost of premiums, and so places the entire insurance system on a firmer, clearer, and juster basis, and makes it evident to the workmen that the contribution of the employer is not a "subvention" but something which they have themselves earned. A glance over the survey proves, however, that the legislation of scarcely one of the countries there treated shows an exclusively obligatory or voluntary insurance; rather both kinds of insurance run side by side in independent laws for each branch of insurance and trade, or they supplement each other in the same laws. In recent development of social insurance, in the German projects and in the plans for insuring private officials, the tendency is observed to follow the lines of agreement at the congress in Rome; that is, to provide the *minimum* required by necessity in the way of compulsory insurance and open the way of voluntary insurance for a *maximum* which may be accessible and desirable to some individuals and callings.

In fact, in this way, by opening up to the more intelligent and strong a more complete means of caring for themselves, in addition to the necessarily obligatory method with the weaker members of society, the defects in the present system may most securely be overcome.

That all modern civilized states are striving toward this common goal is shown in the general survey already mentioned, and that, in consequence of international migration of laborers, the points of contact multiply, is proved by the increasing number of treaties on the principles which were first recognized by the Franco-Italian labor agreement of April 15, 1904, and there developed into a program.

Outlook. 94: 939-46. April 23, 1910.

How Germany Cares for Her Working People.

Frederic C. Howe.

One can speak with far more enthusiasm of the protection assured the worker from accident, sickness, and the misery of a workless old age. Even the Socialist admits that these are steps in the right direction.

Insurance against sickness has been provided since 1884. It is provided for those employed in factories, mines, workshops, quarries, transportation, and other industries. Employees of public enterprises are also covered. The provisions of the law are limited to those whose wages are below $500 a year. The sickness insurance funds are of various kinds. There are local funds provided by the parishes for all of the trades within their limits. Some of the large industries have funds of their own, as do the mine-owners and the contractors in the building trades.

All of the funds provide for free medical attendance and supplies as well as sick pay from the third day of sickness. The benefits amount to one-half of the daily wages received by the beneficiary or the amount upon which his assessment is based. Benefits are continued for not more than twenty-six weeks, after which time, if the illness still continues, the burden is transferred to the Accident Insurance Fund.

The insurance fund is sustained by the workingmen, the employers, and to some extent by the community. Generally the employee pays two-thirds of the premium and the employer one-third, the liability of both being ascertained by periodic reports from the employer as to the number of employees liable to insurance. The premiums are collected by stoppage, the employer deducting the assessments of the employees when wages are paid, which, along with his own share, are then transmitted to the fund.

The administration of the funds is largely in the hands of the working people themselves, through a board chosen

by the employers and the employees. General meetings are held at which all persons who contribute to the fund may come, at which meetings the delegates who have charge of the insurance are elected. About 12,000,000 persons are insured against sickness in the Empire.

A second insurance fund is provided against accident. The provisions of the law cover substantially the same classes as the sickness insurance, and the method of administration is substantially the same. The employer is bound to provide insurance against accident, as in the case of sickness. Upon opening a factory he automatically becomes a member of the trade association covering his business, and is bound to contribute to the insurance fund. This fund is managed by the executive board of the trades, which has power to classify trades and fix the danger schedule. But. better than this, the board has power to enforce rules and appliances for the prevention of accident. If a member refuses to abide by the ruling of the board, he may be fined for his neglect, or his danger rating is increased.

By this means the employers are stimulated to an interest in safety devices, while the special knowledge on the part of the individual trade association leads to a better administration of the rules than would be possible on the part of the State. In all of these matters the employees are consulted. They are also allowed representation on the executive board.

Benefits under the accident insurance law are not left to judicial inquiry. The employee is not put to the expense and delay of a long litigation. Even though the employee is negligent, he is entitled to compensation, unless there should be evidence that he intentionally brought the accident upon himself. Here. as in sickness, the cost of human wreckage in industry is shifted in part on to the cost of production. It is passed on to the community where it belongs.

The amount of the compensation paid depends upon the wages of the employee and the extent of the injury. If the accident wholly incapacitates the worker, he receives a full pension, which amounts to two-thirds of his yearly wage.

If he is still able to work, the pension is adjusted to his earning ability. In case of accident resulting in death, an immediate payment of about one-sixth of the yearly wage is paid. In addition to this, the widow and dependent children are pensioned, the widow until her death or remarriage and the dependent children up to their fifteenth year. In this event the annual pension does not exceed sixty per cent of the annual wage.

Not only is the German workman thus insured against sickness, which marks the beginning of much of the poverty of our cities, as well as against the accidents of industrial establishments, which fill the hospitals with the bulk of their patients, but practically all German workmen are insured against old age. Those whose earnings exceed $500 are not covered by old age insurance, nor are the higher class of employees and servants. The administration of this branch is carried on by insurance societies, which cover certain sections, or by the State at large. All of them are under the supervision of the State and are controlled by the employers and the employees. The old age funds are supplied by the employers and the employees, who contribute in equal shares to the fund. To this the Empire adds $12.50 towards every pension.

The amount of the benefit received, it is true, is not very large. It is not sufficient in itself to support the recipient. It amounts to from $27.50 to $60 a year, according to the wages enjoyed or the premiums paid by the beneficiary.

The success of these insurance schemes is seen by the number of members enrolled. There were 18,000,000 insured against accident in 1903 and 13,500,000 against old age. The total expenditures of the various funds amounted to over $100,000,000, while the funds accumulated as a reserve exceeded $350,000,000.

Aside from the positive accomplishments of the German Empire in this line of social reform, one is impressed with the seriousness with which the cities as well as the nation are considering the whole question. There are frequent conferences attended by representatives from the Empire and

the various States, from the cities, the universities and the philanthropic societies. There is nothing hit or miss about it. The best thought of the university and the most energetic of city officials are constantly studying ways and means for the relief of the numerous problems which arise in connection with unemployment, with the hazards of industry, with the poor and destitute members of the community. Poverty has not been abolished in Germany. Nor has the housing question been solved. Industrial depression takes its tribute there just as it does with us. But the impressive thing about it all is that the nation views these questions in something of the same light that it does the building of Dreadnoughts, of railways, of canals, the adjustment of taxes, and the building of cities.

Germany more than any other country in Europe has entered on a comprehensive programme of human salvage. She is devoting her thought and her energy to the making of people as well as of things.

North American Review. 195: 108-19. January, 1912.

Insuring a Nation. P. J. Lennox.

The bill, in the words of the explanatory memorandum which accompanied it, is intended to effect as wide an insurance as possible of the working population. It contains two separate and distinct schemes. The first not only provides insurance against total loss of income through sickness, but also seeks both to prevent sickness and to cure it when it cannot be prevented. The second provides insurance against total loss of income through unemployment.

The portion of the bill which provides against total loss of income through sickness is also divided into two parts: one making such insurance compulsory, the other providing a voluntary method. Under the first part provision is made, except in certain specified cases, for a compulsory weekly deduction from the earnings of every employee between the ages of fifteen and sixty-five whose income falls below the

Income Tax limit of £160 ($800) per annum, and in every such case there will also be a compulsory contribution from the employer, with a further contribution from the state. The amount to be deducted every week from the wages or salary of every non-excepted employee who earns more than £39 ($195) a year is 4d. (8c.) for men, and 3d. (6c.) for women; the weekly amount to be contributed by the employer for each man and woman employee is 3d.; and the weekly amount to be contributed by the state for each is 2d. (4c.) a week. In cases where the earnings of the employee are less than £39 a year, the amount to be deducted from the wages or salary will be correspondingly less, ranging from 3d. down to 1d. (2c.) per week, while the contribution from the employer will be correspondingly greater, in order to keep the total amount at 9d. (18c.) a week for men and 8d. (16c.) a week for women, for the contribution of the state still remains at the constant figure of 2d., unless in cases in which the weekly wage falls below 9s. ($2.16). In that case the employee's proportion will be borne by the state.

Under the voluntary portion of the scheme, which is meant to apply to those who earn their own living, but who work mainly on their own account and are not regularly employed by others, the person entitled to insure will, if under forty-five years of age, contribute to the fund the full amount which, if they were employees, would be paid by the employee and the employer combined, and the state will contribute as in the former case. If over forty-five voluntary contributors will pay in proportion to their age, such rate to be set forth in a table which the Insurance Commissioners will prepare. The voluntary scheme appears to be open to every one irrespective of the amount of income.

In return for these contributions, which may be looked upon as insurance premiums, the benefits secured to the beneficiaries, after contributions extending over a period of not less than six months, are 10s. ($2.40) a week for men, and 7s. 6d. ($1.80) a week for women for the first thirteen weeks of sickness; 5s. ($1.20) a week for men and women

alike for the second thirteen weeks; and 5s. a week for men and women who are permanently or temporarily disabled during the whole period of such disablement, with the proviso that disablement allowance will not be made unless and until the beneficiary has been a contributor for at least two years. There are slightly different rates for young unmarried persons under 21 years of age, and for persons who are over 50 and over 60 respectively. Persons over 65 are excluded from the scope of the bill. The payments specified will be made in full without deduction on account of contribution, nor will the non-payment of contribution during sickness or disablement count against the beneficiary. In addition to the money payments, there is provided free for the persons insured, a system of medical treatment and attendance in their own homes, or, in cases of certain diseases, in special institutions. Medicines and drugs are also free. There are special liberal grants in maternity cases. Finally there are prospective free medical treatment, attendance and medicines for those dependent on insurers.

It is intended to set aside a sum of £1,500,000 ($7,500,000) to aid local charities and local authorities to build and equip sanatoria for dealing with what the Chancellor called the terrible scourge of consumption, and £1.000,000 ($5,000,000) a year for their staffing and upkeep. The need for this provision is found in the fact that in the United Kingdom there are between 400,000 and 500,000 persons affected with tuberculosis, and 75,000 deaths a year from that cause. Among males between the ages of 14 and 55 one out of every three dies of tuberculosis, and, to make matters worse, as soon as a man is attacked by it he becomes a recruit in the army of destruction and scatters infection and death in his own household. To stamp out this white plague all the resources of science will be brought into play backed for the first time by a nation-wide measure of financial support.

It is calculated that there will be 13.100,000 compulsory contributors, 800,000 voluntary contributors, and 800,000 young persons under 16 affected by the bill, making a grand total of 14,700,000 to be included in the scheme of insurance against

sickness and invalidity. In the first year, 1912-13, the income from the contributions of employees and employers together will, according to estimate, amount to about £20,000,000, of which £11,000,000 will come from the workers and £9,000,000 from the employers, while the expenditure on benefits and administration will in the same year, in consequence of the waiting periods prescribed by the bill, be only £7,000,000, rising to £20,000,000 in 1915-16, the first full year. One feature of the bill is that the rate of contribution is uniform for all compulsorily insured employees of all ages within the limits named, and on this account a heavy loss is at first anticipated, because sickness doubles, trebles, and even quadruples as people advance in life; but by a special provision in the bill it is inteded to wipe out that loss in 15½ years. At the end of that period there will be a considerable sum, probably £9,000,000, released for the purpose of increasing the benefits. One shape that such increased benefits may take is the lowering of the age for the receipt of old-age pensions from the present limit of 70 to 65.

Regarding the contribution to be made by the state, it is figured at £1,742,000 for 1912-13, rising to £3,359,000 in 1913-14, to £4,563,000 in 1915-16, and to £6,000,000 at the end of the 15½ years' period.

The machinery for the administration of this gigantic scheme of national insurance is on the whole of a fairly simple character. The funds accruing from the various classes of contributors will be collected by means of stamps. In the compulsory case, a card will be given to each employee, who will in turn take it to his or her employer, and at the end of each week the employer will affix to it stamps equivalent in value to the employee's 4d., or other amount according to the nature of the case, and his own 3d., or whatever the correct amount may be. The employer will of course reimburse himself for the employee's contribution by a deduction from the wages or salary. The card stamped as indicated will be handed to the employee, who will in turn take it to the local post-office. The postmaster will on

his part transmit the card thus stamped to the Central Office. There the amount so forwarded in stamps will be placed to the credit of the beneficiary. In the case of contributors, voluntary or compulsory, who are not members of a recognized Friendly Society, the insurer pays what we may call his premium directly to the post-office and gets credit for it in a special book, which of course, he retains. All amounts so paid are, as in the former case, transmitted to the Central Office by the postal official.

The distribution of the fund will be accomplished in a corresponding twofold manner. To the great Friendly Societies which are already established or may hereafter be founded in accordance with the provisions of the bill will be assigned the distribution of benefit funds to their members. All insurers will be encouraged to join such societies. For contributors, whether voluntary or compulsory, who are not members of such a society the Government will set up a post-office system of distribution somewhat similar to the system at present used for the payment of pensions under the Old Age Pensions Act of 1909. Every precaution will be taken to have the distribution societies perform this portion of their work in a proper manner. Among the safeguards provided are large membership (10,000 for Great Britain, 5,000 for Ireland), non-division of funds except for benefits, keeping of books and accounts, Government audit and valuation, the giving of adequate security against malversation or misappropriation of funds and provision of arbitrators in case of dispute. Special precautions are taken against malingering. To aid distribution both through the Friendly Societies and the post-office, Local Health committees will be established, and these committees will have charge of making the medical arrangements for all beneficiaries, and of carrying on educational and propaganda work looking toward the general health of the community.

That part of the bill which deals with insurance against unemployment is limited for the present, as far as its compulsory force is concerned, to those trades in which the most serious fluctuations occur—namely, the engineering trade and

the building trade; but in order to encourage voluntary insurance against unemployment the Board of Trade is empowered to pay to any association giving unemployment benefits a subsidy of one sixth of the amount, up to 12s. a week per individual, expended on such benefit, and this regulation applies to all trades and all employees.

The reasoning by which the Chancellor of the Exchequer justified the principle of compulsory unemployment insurance is that, whoever is to blame for the great cyclical, seasonal, or other fluctuations of trade, the workman is the least to blame, for he does not guide or gear the machine of commerce and industry, the direction and the speed being left almost entirely to others. The Chancellor limits the operation of his plan for the time being to the two selected trades, because he recognizes that, for want of actuarial data, his proposal is more in the nature of an experiment than is his plan for sickness insurance. No real effort has been made in this matter of unemployment insurance heretofore in the United Kingdom except by the trade unions, and in their case it applies to only 1,400,000 workers, who form but a fraction of the industrial population. Other workers cannot, unaided, afford such insurance; and even in the case of the trade-unions the burden sometimes falls so heavily upon them that it is almost impossible for them to bear it. This is one of the justifications put forward for the above-mentioned subsidy to assist voluntary insurance.

The basis upon which the compulsory scheme of this part of the bill rests is, as stated, a trade basis. The Chancellor was deterred from using a municipal basis or a national basis by a consideration of the many failures along those lines which had occurred on the Continent. By compulsion, therefore, within the trades selected, a fund is to be raised for the purpose of relieving distress due to unemployment. The levy on the workman will be 2½d. (5c.) a week, on the employer 2½d. a week also, and 1¼d. (2½c.) will be the weekly contribution from the State. If an employer chooses to compound and pay his own contribution and the contribution of each of his workmen by the quarter, he will in

that case effect a considerable saving per annum, the saving representing 6s. 8d. ($1.60) per man, or the difference between 10s. 6d. ($2.60) and 4s. 2d. ($1), and being effected by the employer's appropriating the 2½d. weekly for each of his workmen. In big concerns, where several hundred men are employed, this is an important feature. It is, of course, an inducement to the employer to keep all his men working all the time.

The plan, as at present outlined, will apply to 2,421,000 workmen, 1,100,000 from the building trade and 1,321,000 from the engineering trade. Their contributions as estimated will come to £1,100,000 per annum, and those of the employers to £900,000, while the State for contributions and administration will be liable to about £750,000 per annum.

The benefits to an unemployed workman during his period of unemployment of not more than fifteen weeks will be a weekly payment varying from 6s. to 7s. No payment will be made to a workman who is dismissed for misconduct or who is out of employment through a strike or a lockout. Relief will be given only for unemployment due to fluctuations of trade.

The machinery for the distribution of these benefits will be the existing Labor Exchanges and the existing trade-unions. The trade-union will pay to its members the unemployed benefit, but the Labor Exchange will have first to report on the case. The workman who is unemployed will have first to notify a Labor Exchange, whose officials will investigate the genuineness of his claim, and prevent him from getting unemployed pay if he is not entitled to it, and further will try to secure him employment as soon as may be. If he refuses a job offered to him, an impartial court of reference will decide whether he is justified in doing so, or not, and if he is found not to be so justified, he will be ineligible for unemployment pay. There is no pay for the first week's unemployment, nor for more than fifteen weeks in the year, and no man can draw more than one week's pay for five weeks' contribution, so that the loafer will soon drop out.

It will at once be seen that the traditional British respect for the liberty of the subject to do what he likes with his own property is here openly and avowedly violated. There is in a sense a return to paternalism, or at least to benevolent despotism: as you punish a child for its own ultimate good, so you tax certain people for their own contingent benefit. Mr. Lloyd-George's defense is that what he does he does in the public interest. It is a good thing, he argues, for the workman to be insured against sickness or unemployment: therefore let him pay. It is a good thing for an employer to have to deal with a hardy and healthy race of efficient workers instead of with inefficient weaklings: therefore let him pay, too. It is a good thing for everybody to have a healthy and contented population: therefore let everybody pay, directly or indirectly for so great a boon. In essence, the Chancellor doubtless further argues, it is just as defensible to put on taxes to secure a well-doctored, properly medicined nation, and by prevention or cure of sickness to reduce the bills of mortality and cut down the ills which flesh is heir to, as to raise by taxation a fund to build and equip Dreadnoughts for the protection of British trade. His proposals are at the same time a tribute and an important addition to the new humanist view of the obligations of government.

It will be noticed how important are the functions to be exercised under this bill by the post-office, the Friendly Societies, the trade-unions, the Labor Exchanges, and the Health Committees. The post-office has gradually grown to be the great general utility department in British executive government. It is the one department that is worked at a profit. Its activities extend not only to the mails, but also to the telegraphs, telephones, savings-banks, life-insurance, annuities, and stock-broking transactions; its aid has also been invoked and obtained for the Labor Exchanges; and now its elasticity is to be demonstrated by its method of handling the new responsibilities with which it is to be intrusted. For the first time the Friendly Societies and the trade-unions are to be called in as allies of the Government.

Many dread the results for the smaller Friendly Societies. With regard to the trade-unions it is remarkable that, while some labor leaders fear their efficiency as protectors of their members will be impaired, some capitalists dread that the public funds they administer may, in some bafflingly elusive manner, be made to supply contributions to the war-chest in the battle between capital and labor. Neither contingency, it should be added, is apprehended by Mr. Lloyd George.

Survey. 27: 1306-12. December 2, 1911.

Struggle for the British Health Bill. Randolph J. Brodsky.

Aside from its scope, embracing the vast majority of the working population of the British Isles, and taking in not only the care but the prevention of disease, the bill is peculiarly interesting in that it makes skillful use of existing English agencies together with new administrative institutions patterned on the German experience; and that it comes at a time when the problems of poverty and industrial stagnation have become acute. When the bill was introduced in Parliament last May by Lloyd George, chancellor of the exchequer, it met with spontaneous approval, the Opposition uniting with the Government in its support. Gradually, however, the full significance of each provision became clear to the various interests that would be affected, and difficulties arose for adjustment. Friendly societies which maintained coöperative drug stores came into conflict with the pharmacists who, under the bill, were given the right to dispense all medicines. The hospitals claimed that the bill would increase their cases and that the insurance rates would deprive them of many voluntary contributions from working people and employers; therefore they demanded state payment for in-patients, as well as exemption from payment for their own employes. Householders and farmers also demanded exemption. Suffragettes and representatives of working women complained of the inferior terms under which the benefit would be paid to women—in return,

it is true, for a lower contribution. Insurance companies operating among industrial populations and fearing that the bill might cut down their business asked to participate in the insurance system. Small societies objected to the 10,000 membership limit set in the first draft of the bill. Employers felt that the whole community should share the burden. Though the Labor party as a whole supported it, a minority in that body, as well as the Dockers' Union, the Social Democratic Federation, and the Anti-Sweating League, opposed the contributory features and the treatment of poorer insurers vigorously. The Irish labor unions contended. as a matter of course, for home rule.

The chancellor, for many years president of the Board of Trade and a skilled arbitrator, mollified these and many other opponents. A greater difficulty was, however, encountered in satisfying the claims of doctors and friendly societies. A preliminary review of the Insurance Bill is essential to a discussion of the claims of the critics, particularly of these two groups.

Lloyd George's health scheme, which was framed with the co-operation of the friendly societies, covers sickness, invalidity, and maternity. Out of a total wage-earning population of 19.000,000, 14,000,000 persons are to receive its health benefits as compulsory insurers. These fourteen millions include all working persons under sixty-five years who are in receipt of an income not exceeding $800 a year, with the exception of those working on their own account, wives working for their husbands, casual domestics and workers, commission agents working for more than one employer, and pensionable government employes. Sailors and soldiers are to be covered by a special fund. In addition to the compulsory insurers, special provision is made for voluntary insurance, which will probably take in some 850,000 persons, the majority being wives of compulsory insurers. On her marriage a woman's contributions while compulsory insurer are returned to her.

Those insured under the compulsory scheme are divided into two groups, members of approved societies and post

office or deposit contributors. Under the term "approved society" come trade unions, clubs formed of policy-holders of industrial insurance corporations, and friendly societies. These approved societies must be self-governing organizations, not on a profit-making basis, with membership large enough to secure against risk, and must provide medical treatment and money benefits.

Employers' benefit funds are allowed in this group under certain conditions. They must, however, be in a position to grant the minimum benefit for the statutory contribution. Any member is, however, given the right to transfer his subscription and his employer's share with it to any ordinary society, if he desires to do so. The principle of self-government remains, but the employer is allowed one-fourth representation in the management of the society, if he makes himself responsible for the solvency of the fund. The requirement as to a minimum number of members is not applied to employers' funds.

It has been estimated that 12,000,000 persons, or 86 per cent of the insured, would be members of approved societies existing or created. Those who do not wish to join benefit societies or who are disqualified for membership by physical, mental, or moral defects constitute the post office or deposit contributors. This class, which will number some 900,000 persons—14 per cent of the insured— represents low risks, that is, high morbidity and mortality rates. Special precautions have therefore been taken against possible depletion of the treasury. The post office depositor is deprived of invalidity insurance. His waiting period for the sick and medical benefit is prolonged and under ordinary conditions the sick benefit he is allowed to draw must not exceed the amount of his deposits. Under certain conditions, however, the local health committees who administer the benefits of this group of insured may, with the consent of the treasury or the local authority, enlarge the benefits of post office depositors by spending more money than the actual amount of the contributor's deposit upon medical treatment, the treasury and local authorities each defraying one-half the

additional expenditure. The arrangements for post office contributors are tentative for three years.

The minimum sickness benefit obtained for these contributions is 10s. a week for men and 7s. 6d. for women, to begin after the fourth day of illness and continue for thirteen weeks. Those paying lower than 4d. contributions receive correspondingly lower benefits. If illness continues after this time 5s. is provided for the following thirteen weeks. Invalidity benefit begins at the twenty-seventh week and continues at the rate of 5s. until the patient is eligible for an old-age pension. A maternity benefit of 30s. is to be paid to the wives of insured men or to unmarried mothers who are insured. This latter benefit will be paid to something like a million mothers annually. Besides money payments the insured will receive free medical attendance and medicine, and sanatorium care in cases of tuberculosis or certain other specified diseases.

A comparison of the English with the German system shows the English bill to be more advantageous to the insured in that the workman bears a smaller proportion of the expense and has the entire administration of the funds. The employer bears a larger share of the financial burden and the government contributes not merely as in Germany to the invalidity fund but to that for sickness as well. The maternity benefit is on a basis far wider than that of Germany, where it is so hedged about with restrictions as to reach comparatively few. The estimated annual cost of this maternity benefit in the British Isles will be £1,500,000; in Germany, with a population almost half again as large, it is only £300,000.

The cost of management will be reduced to a minimum by the method of collection through existing approved organizations. The method of collecting contributions, the most vital part of a compulsory plan, is simple. The workman obtains from his friendly society or the post office a card issued by the Insurance Commissioner. To this his employer attaches each week stamps to the amount of the workman's and his own contribution, the former being held

back from wages. At intervals these cards are cashed-in to the insurance office by the societies. The sums paid for stamps, together with the contribution of the government, form the national health insure fund. The greater part of this fund will, on the plan of the German Sick Funds, which have in this way cut down their sickness rate, be invested by the National Debt Commisioner in loans for sanitary housing. The friendly societies retain the right to invest the workmen's own contributions.

Sanitary housing is one side of the health campaign; the general work of preventing and caring for disease is the other. This is entrusted to local health committees, bodies which will supplement the work of already existing health authorities. Their special functions will be the administration of the funds for medical care and sanitation and the conducting of an educational campaign. More important still, they will have the power to demand a public inquiry in cases of excessive local sickness due to neglect of public health, factory, or housing acts. If the case is proved against a local authority, that authority will have to reimburse the insurance fund through the societies or, in the case of post office contributors, through the health committee, for any expenses it has incurred—reimbursing itself in turn from the local property owner at fault, if the fault is a private rather than a public one. This system will mean also the accumulation of invaluable records of public health and the automatic revelation of "black spots" to be cleaned out.

The sphere of action, the powers, and the influence of the local health committees being from the beginning so large, and subject to such indefinite extension, their personnel will be of immense importance. The friendly societies and the medical profession are to be included, besides representatives of county or borough councils and the post office contributors. General supervision of the insurance system will be entrusted to a Board of Insurance Commissioners—with a central office in London and branches throughout the country—aided by an advisory committee of representatives of employers' associations, approved societies—including

trades unions as a balance to the employers' representatives—physicians, and other experts chosen by the commission. Women are eligible for membership in all committees. The expenses of the Board of Commissioners will be met out of the national exchequer.

Such is the National Insurance Bill. Some idea of the number of its critics has already been given. It has been strongly objected to both in principle and in detail. The basic contributory plan has been attacked by the group of representatives spoken of above, who, using the metaphor of the dog who fed upon its own tail, claim that the worker pays both his own and (in enhanced price as consumer) the employer's contribution. They say further that the contributory system renders the insurance almost useless to the poorest class of workers, who need it most, and who receive back only what they give. The full benefits of the system go, they hold, only to the well-paid workers, who need them least. Other critics object to the total exclusion of the married woman from the compulsory plan. Others again object to the age limit of sixty-five for admission to the system, which leaves an interval of five years during which an aged person is eligible to no state assistance. This latter difficulty, it is expected, will be met by lowering the inferior limit for old age pensions by five years. Lack of funds and difficulties of administration will make it necessary to deal with the other problems by later legislation. The believers in the bill point out that when the accrued liability due to the flat rate system of contribution is met, large sums will be released for extending and perfecting the system.

After this period of debt is passed the plan is to increase maternity, sickness, and invalidity benefits. Besides this increase in existing benefits, the government contemplates adding new ones, such as free medicine for dependents and a benevolent fund for members in economic distress, and extending and improving the whole public health system, so as to make it an integral part of the Liberal scheme of social legislation, which is planned to cover all contingencies, from accident to old age, that befall the working man.

Two serious protestants the government had to deal with. Both are essential parts of the mechanism of the national insurance system: the friendly society because the whole work of organization and management of sick benefit is left in its hands; the medical profession because it is called upon as part of a public scheme to administer medical treatment to some 14,000,000 people. How important complete harmony and close co-operation between these two elements is, is shown by the German experience, where their quarrels have seriously handicapped the system. From the very introduction of the English bill fears were entertained of a possible collision, and, when the clash actually occurred, the excitement was communicated to the general public, which watched with curiosity the struggle between common friendly society man and "gentleman" doctor. Under the bill the friendly society or trade union is promised state aid, is guaranteed a steady and increased business through a compulsory plan that will give it stability and permanence. It is presented with a reserve fund and, if it already possesses reserves of its own, it will be enabled to reduce contributions for the same benefits or increase benefits for the same subscriptions. It will prosper, but at the price of partial renunciation of the self-government principle and certain other privileges. From now on the government will stand between the friendly society and the individual member; from now on the friendly society becomes an "approved" society; it submits itself to the supervision, regulation, restriction, and reorganization desired by the government. From now on it will be obliged to make regular valuation of its assets and liabilities and will be restricted in its right of investing its sickness benefit funds. None of the friendly society activities except these sickness funds will, however, be affected. In respect to one form of society, the trade unions, it is estimated that the insurance will mean a donation of some $12,000,000. At the publication of the bill the friendly societies showed a rather sympathetic attitude toward it. They became, however, more reserved when Parliament, under the pressure of the insurance interests represented by the eighty

directors of insurance companies who sit in the lower house, extended the definition of approved society so as to include in the scheme the industrial insurance companies and collecting societies, and permitted them to form sick clubs of their policy-holders. These profit-making institutions the friendly societies viewed as dangerous and unfair competitors. They feared that industrial corporations, with their hordes of paid agents and solicitors, would soon crowd them out; that high officials and agents, and not the policy-holders, would administer the business; that there would be an end of the self-government principle guaranteed by the bill.

Finally, when Parliament, persuaded by the interests represented by the British Medical Association, made changes in the bill that deprived the friendly societies by the stroke of a line of the power of making their own arrangements to secure efficient medical treatment and transferred this power to the local health committee, they began to manifest a feeling of hostility toward the bill and of distrust towards its framer. They saw themselves with their traditions of self-government, mutual help, and social intercourse in unequal competition with the insurance companies' sick clubs, in no sense democratic but governed by the company officials; and they saw their whole medical system passing out of their hands into those of the doctors and the health committees. The additional money advantage to their members did not balance the danger to their social and democratic traditions. At a special convention of the National Conference of Friendly Societies, they formulated a series of minimum demands and sent an ultimatum to the chancellor to the effect that unless their demands were granted they would repudiate the bill and refuse the administration of the act. Among these demands, the restitution of their control over the medical treatment of their members occupies the most prominent place; and on this issue—"the free choice of a doctor"—the battle was concentrated for several months. So much for the Friendly Societies' side.

In transferring the administration of medical benefit from the approved society to local health committees, Parliament

expressed its belief in the principle of individual choice of a doctor. It decided that, in the interest of the individual member who may become ill, from considerations of efficient and economical administration and general health, it is desirable that the whole question of medical benefit should be turned over to local health committees. The later will maintain an approved local list of doctors whom the local contributors may freely choose instead of being forced to use the "club" doctor employed on contract by the friendly society or pay, in addition to their dues, for a physician of their own choice. The class of "soft" doctors, who are willing to give certificates to malingers and cause the depletion of the society treasury, can be held in check, the adherents of this plan maintain, by their own profession, which will protect itself and the scheme by organizing watch committees. The daily experience of club treatment shows that the members often do not take advantage of the right to the attendance of the club doctor, but prefer to pay for a doctor of their own choice.

The doctors' side of the question remains to be considered. Doctors have hitherto accepted contract practice, with friendly and other societies, partly in order to get a start in life, partly to obtain experience, and often because, although in good practice, they were willing to do the work from altruistic motives. In many places, indeed there has been no "doctor difficulty," the friendly societies treating the doctors reasonably and considerately. But under a scheme nation-wide in application the doctors were faced with the proposition that an engrossing share of their practice would become contract practice at a rate of pay which they held would be unremunerative. If the greater part of a physician's practice was to be turned into club practice, they claimed that a much higher rate per head would have to be charged. The chancellor agreed to fix this rate at 6s. per capita, without the medicine, as against the 5s., 4s., and even 3s. contract doctors have been accustomed to receive from friendly societies.

The final question at issue between doctors and friendly

societies was the control of the local health committees, and to their demand for a majority on these bodies the societies were determined not to yield. In this fight the Opposition, the Conservative party, took the part of the societies. Afraid, to the minds of the Liberals, to attack the bill openly, and at the same time fully conscious of the fact that, if passed, it would establish a monument to the present Government, the Conservatives deemed this the proper moment to retard the progress of the bill. "Willing to wound, but afraid to strike," they, in the words of Lloyd George, "gave a yap and then said to friendly societies and trade unions, 'You go at it.'" Their press recorded painstakingly the slightest manifestations of dissatisfaction—"revolt," they called it—from friendly society, labor man, socialist, suffragette, hospital officer, or private individual. They dwelt upon the unpopularity of the bill, the complexity of the situation, the inadequacy and unripeness of the bill, and finally went so far as to urge its withdrawal. Disappointed that the old-age pension bill stood to the credit of the Liberal government, they sought to block further social legislation by the party in power. For a time, this taking the bill into politics seriously endangered it, but gradually the situation cleared. The election results in Kilmarnock, where the campaign was conducted and won on the issue of the insurance bill, brought some relief and encouragement in Government circles, as did the effect on the public of Lloyd George's speech on the bill at Whitefield's Tabernacle on October 14. In this address Mr. Lloyd George presented the strong features of the bill, revealed the intrigues and the misrepresentations of the Opposition, and carried with him the audience and the general public by the declaration, "I will fight through or fall." To clinch this victory there appeared at this time a Report on Trade Unions Under the Scheme, prepared by an actuary of national standing, on behalf of organized labor, which pointed out, to the surprise of the labor unions themselves, that they would derive great advantages from the act. Soon after Ramsay MacDonald, M. P., chairman of the Labor party, made a public statement to the effect that the Labor

party had passed a resolution in support of the insurance bill. He promised that all his influence would be used to aid its passage and stated that opinions contrary to the bill were held by but two or three members of the party. In the meantime the chancellor was using his influence to bring the two chief conflicting interests to terms. He brought the friendly societies to the point of attending joint meetings with representatives of the medical profession, at which both sides made some concessions. On October 19 a great meeting of all friendly societies was held, at which the leaders surprised the audience by announcing that the chancellor of the exchequer had conceded nine out of their original eleven demands, and by moving a resolution in support of the bill, which was carried. The important concessions were: the right of investing their own funds; the right of self-government for the sick clubs of insurance companies; and, most important of all, the right to appoint the majority of representatives on local health committees.

Survey. 24: 136-9. April 23, 1910.

Accident Relief of the U. S. Steel Corporation.

The United States Steel Corporation has announced a plan for relief of men injured and the families of men killed in work accidents. The plan is a distinct advance over any existing system of relief carried out under any of the constituent companies; it puts all the employes of the biggest payroll in America—225,000 men—on the same footing, and it establishes a system which can be adjusted to the new legislation that will probably be enacted in the next ten years in the different states in which the corporation operates.

In more ways than one, then, the new plan, which will go into effect May 1 for an experimental year, is a step in advance. The exact provisions are published below. While some of them do not measure up to the proposals made by the various state commissions which have been considering the subject, many of them are a radical departure from con-

temporary practice, and as a voluntary act show both foresight and liberality. The plan disregards the idea of negligence entirely and may be said to recognize that a share of the income loss due to work accidents should be a charge on the industry; it covers hazardous and non-dangerous employments alike; it puts the entire cost of the plan on the business without any contribution whatsoever from the men. No relief will be paid if suit is brought. It naturally requires a release from legal liability upon payment of the relief, but it avoids the involved and questionable relationships created by such relief associations as, for instance, the Pennsylvania Railroad Relief Department to which, like a mutual insurance association, the employes pay dues, and from which they can receive no benefits from their dues until they sign a paper releasing the company from any legal liability.

The Steel Corporation makes a point in its announcement that the payments it proposes are "for relief and not as compensation." "There can be no real compensation for permanent injuries, and the notion of compensation is necessarily based on legal liability which is entirely disregarded in this plan as all men are to receive the relief, even though there be no legal liability to pay them anything. . . ." In line with this position, there are no death benefits for single men and extremely low disability benefits for them. Large numbers of immigrant laborers fall in this class. Moreover, in death cases the wording of paragraph 24 specifies that relief will be granted "married men living with their families." This would exclude the non-resident families of aliens, unless the manager of the relief sees fit to exercise his discretionary power in their favor. But it is understood that wide latitude has been left the company managers in cases where single men have old people or others demonstrably dependent upon them. The death benefit for a married man is eighteen months' wages and this is increased ten per cent for every child under sixteen; an adjustment of relief to need which is noteworthy. The plan includes medical and hospital treatment. It is a statement of a consistent policy which will give the man who goes to

his work in the morning a fair knowledge as to what will happen in case he is killed. Much of the ill name of claim departments in all industries in years past has been due to the incentive to claim agents to "make a good showing" by keeping down awards. Here definite standards are set.

The most serious question raised by a first reading of the prospectus of the plan is as to the sufficiency of the benefits provided. In comparison with the three years' wages, which is the death benefit under the English system, and the four years' wages proposed by the New York State Commission, the Steel Corporation announces eighteen months' wages for a married man in case of death. By a sliding scale this is increased with an increased number of children and with length of service in the company. Yet the family of an employe of ten years' standing with five children would still get but two and one-half years' wages. If such a man were temporarily disabled, however, he would get eighty-five per cent of his weekly wages as against the flat rate of fifty per cent for all disabled men under the New York bill. The highest injury benefit specified in the Steel Corporation's announcement is for the loss of an arm—eighteen months' wages. The highest benefit for permanent disibility under the proposed New York state law is half wages for eight years; that under the English law is half wages for life. But here again the discretion of the company managers enters in, and in the case of loss of both limbs or other more complete permanent disability, larger amounts would doubtless be paid. At several important points, therefore, the plan is flexible and results will be dependent upon the spirit in which the company managers carry out its provisions. It would be impossible to forecast these practical workings of the plan until after it has had at least the year's trial and until detailed statements are available as to the nature of injuries and actual benefits paid. The minimum provisions for death in the case of married men are in themselves higher than were the average benefits paid by any large employer in the steel district the year of the Pittsburgh Survey.

Nor is it likely that the Steel Corporation will know either the cost of the new policy or its acceptability to its employes earlier than after such a probationary year. The corporation has been able in the past to settle most cases out of court, yet the new plan may effect economies in gathering legal evidence, etc. Such a large plan of relief would scarcely have been attempted were it not for the energetic measures to lessen accidents which have been carried out in the plants of the constituent companies during the last two years. From the managers' standpoint, the plan has merit in its probable attraction to the men—a considerable point in keeping intact a non-union working force. From the public standpoint it is widely significant that the operating corporation, which has probably the largest accident experience in America upon which to base its plan, and which has spent a million dollars a year on accident payments in the past, should adopt a plan which it describes as "similar in principle to the German and other foreign laws and to recommendations which have been made by employers' liability commissions in New York and other states since our work upon this plan was begun (December, 1908)."

Quarterly Journal of Economics. 24: 714-42. August, 1910.

Old Age Pension Schemes: a Criticism and a Program.

F. Spencer Baldwin.

The establishment of old age pension systems in many states is a striking phase of the growth of social legislation during the last two decades. Germany led the way in 1889, with the first old age and invalidity insurance law. Denmark instituted a system of old age out-door relief in 1891. Next, three of the Australasian colonies of Great Britain established old age pension systems,—New Zealand in 1898, New South Wales in 1900, and Victoria in 1901. Meanwhile Belgium had adopted a system of old age insurance and pensions in 1900. France and Italy also later introduced special measures of old age relief, modeled

after the Belgian system. In 1908 the Commonwealth of Australia enacted an invalidity and old age pension measure to go into effect July 1, 1909; the Canadian parliament passed a law providing for the issue of government annuities; and England adopted the old age pension act to go into effect January 1, 1909. The French senate has recently passed a measure of obligatory and contributory old age insurance. Projects of legislation with reference to this question have been under parliamentary consideration in Austria, Norway, and other European states.

This widespread movement has been prompted by mixed motives; humanitarian and economic considerations have worked together in its support. The former were uppermost in the minds of the pioneers of the movement. The men who first directed public attention to the problem of old age provision in England, about a generation ago, were philanthropists who desired to reduce the volume of human misery. They were shocked by the extent of old age pauperism. They proposed that a pension system be established as a means of taking aged workers out of the almshouses and enabling them to spend their last years in self-respecting comfort. Later, the humanitarian motive was reinforced by economic considerations. The changing conditions of economic life forced the problem of industrial superannuation upon the attention of employers. The increasing use of machinery and the growing stress of competition demanded the retirement of workers at an earlier age. Employers have come to recognize that the aged worker is a burden on industry; his retention in active employment after he has passed the limit of his efficiency means economic waste. The establishment of pension systems has, therefore, been proposed as a means of retiring employees at a reasonably early age and removing this handicap on industry.

The various plans for the solution of the problem of old age support which have been tried or proposed involve widely different principles and methods. The first issue that arises in passing upon principles and methods of solu-

tion is, should the plan be contributory or non-contributory? That is should the expense be borne in whole or in part by the beneficiaries, in the form of contributions to pension or insurance funds, or should the cost be defrayed entirely by the State, through general taxation? If the contributory principle be chosen, then the further question arises, should participation in the plan be compulsory or voluntary? That is, should individuals be left entirely free to take advantage of the system of pensions or insurance provided, or should they be complled to participate in the scheme? If, however, the non-contributory principle be chosen, the matter of compulsion becomes irrelevant, because it is evident that every one who really needed such aid would apply for a pension under any non-contributory system. Finally, whether the plan be contributory or non-contributory, this further question comes up for consideration, should the insurance or pension scheme be universal or partial? That is, should the benefits be extended to all without restriction, or should they be confined to those who meet specified conditions of eligibility?

Proceeding further with the analysis—from principles to measures—we may group the various plans of old age pensions, insurance, or annuities under six main types:

(1) *Universal Non-contributory Pension Schemes.* This type of scheme is associated with the names of Charles Booth of London and the late Edward Everett Hale of Boston—the most prominent advocates of universal non-contributory pensions. The scheme of Mr. Booth calls for the grant of a pension of 7s. a week to every person 70 years of age and over. Mr. Booth would exclude aliens, and possibly other ineligibles, from the benefits of the pension system, but remarks that it is unnecessary to burden the statement of his scheme with these details. Practically, the plan is universal in its application, and is wholly non-contributory. Any person claiming to be 70 years of age and entitled to a pension would take out an application. If the application were allowed, the pensioner would then be provided with a certificate of identity and a pen-

sion book, which would enable him to draw his allowance weekly at a local post office. The plan proposed by the late Edward Everett Hale was similar to that of Mr. Booth. Every citizen, man and woman, over 69 years of age was to be paid a pension of $100 a year. The cost of this scheme was to be met out of the proceeds of a State poll tax. It was Dr. Hale's opinion that, if the expense of a pension scheme were provided for in this way, the citizens who paid a poll tax would feel no discredit attaching to the receipt of a pension, since they would themselves provide the funds out of which the pensions would be paid.

(2) *Partial Non-contributory Schemes.* This type of scheme is embodied in the old age pension acts of Great Britain and Australia. The application of the British and Australian systems of old age pensions is restricted to the deserving aged poor. The British act provides for the payment of pensions, not exceeding 5s. weekly, to persons 70 years of age and over, but excludes from the benefits of the scheme the following classes: persons who have lived in the United Kingdom less than 25 years; persons whose yearly incomes exceed £31 10s.; persons in receipt of poor relief; persons who have failed to work according to their ability to maintain themselves and their dependents; inmates of lunatic asylums; and persons convicted of a prison offence. The scheme is wholly non-contributory, the expenses being paid out of "money provided by Parliament." The Australian system is similar in principle to the British plan, the main differences being that the pensionable age is lower, namely, 65 years, and that the amount of the pension is larger, namely, 10s. per week.

(3) *Compulsory Contributory Insurance, with State Subsidy.* This is the well-known German system. The insurance is compulsory on all wage-earners, and on salaried persons whose yearly income does not exceed 2000 marks. The scheme is founded on the principle of obligatory insurance for working people, with assistance by employer and State. Participation in the plan begins with

the completed sixteenth year. The pension is paid at the age of 70. The contributions by the insured are graded according to the amount of wages or salary in each case. The contribution is divided equally between the employer and the employed. The State pays the expenses of administration, and in addition contributes to each pension a fixed sum. This method of dividing the burden works out in practice so that one-third of the total expense is borne by the State, by employers, and by employed respectively. The amount of the pension is small, the maximum allowance not exceeding $60 per year.

(4) *Voluntary Contributory Insurance, with State Subsidy.* This is the plan embodied in the Belgian old age pension act. It is a scheme for subsidizing thrift by means of a state contribution to insurance funds provided through individual savings. The object is to put a premium on saving for old age. Participation in the scheme is optional. The pension is payable at the age of 60; the amount is $72. The plan is administered through a superannuation fund bank, maintained by the state. Citizens may insure themselves, making contributions to this bank; the State then pays a bonus or premium on the amount contributed by the individual. This scheme of assisted insurance is supplemented in Belgium, it should be added, by a system of non-contributory pensions.

(5) *Annuity Schemes under Public Administration.* This type of scheme has been adopted in Massachusetts through the savings bank insurance act of 1907, and in Canada through the government annuities act of 1908. The underlying principle of these two measures is essentially the same. They provide for the sale of insurance or annuities at low rates, under a governmental guarantee. In the Canadian scheme the sales are made directly through a governmental department; in the Massachusetts scheme, indirectly through the medium of the savings banks. The system differs from the Belgian plan of voluntary contributory insurance, in that the State pays no direct subsidy to the insurance funds. There is, however, a small subsidy

by the State, in the form of the expenses of administration. The maximum amount of the annuity in Canada is $600, the minimum $50; in Massachusetts the insurance is limited to $500, and the annuity to $200. Opportunity is afforded to employers to co-operate with their working people in providing insurance or annuities, by making contributions toward the payment of premiums or assisting in the collection of the latter.

(6) *Voluntary Insurance under Private Management.* This method of dealing with the pension and insurance question is illustrated by the industrial insurance offered by private insurance companies, and the retirement and pension systems established by employers of labor. No state action is involved here, except in the form of supervision. In case of the schemes established by employers, each industrial group provides for its own insurance through a contributory or non-contributory scheme. The great majority of these private pension systems are based on the non-contributory principle. Industrial insurance is a business proposition, pure and simple; it represents private enterprise applied to the solution of the problem of old age insurance.

The untried scheme of universal non-contributory pensions may be dismissed from further consideration. The enormous expense is generally recognized as prohibitive, even tho the plan itself were otherwise unobjectionable. Aside from financial considerations, the demoralizing effect of pensioning indiscriminately the thrifty and the thriftless, the deserving and the undeserving, the needy and the well-to-do is an absolutely conclusive objection to the plan.

So far as existing measures of legislation are concerned, the issue lies between (1) partial non-contributory pensions, (2) universal compulsory insurance, and (3) voluntary annuity schemes. In general, this issue should be determined especially with reference to the effects of the different systems upon the rate of wages, upon the character and efficiency of the individual, and upon the status of the family. It is obvious that any plan of state aid which tends

to depress wages, to weaken character and efficiency, or to disintegrate the family, must be condemned as socially injurious.

(1) The British old age pension system has not been in operation long enough to afford much evidence regarding the social effects of this type of scheme. The Australasian legislation, also, is of comparatively recent origin. The only important conclusion that can be drawn from the short experience with partial non-contributory pensions in the British colonies relates to the effect on poor relief. One of the popular arguments for the pension policy is that it will reduce greatly the outlay for relief purposes. The contention is that the establishment of a pension system for the aged will keep them out of the almshouses. It is argued that the consequent reduction of expenditure for poor relief will offset in great measure the cost of the pensions. It has even been contended that the adoption of a pension plan will result in net saving to the State. This argument is completely discredited by the experience of the British colonies. In New Zealand, the cost of in-door relief has risen notably since the pension scheme went into operation, from 11 1-2d. per capita of the population in 1898 to 1s. 5d. per capita in 1906. The treasurer of the colony of Victoria states that the introduction of the old age pension system has had no observable effect on the charitable institutions of that State. The Australian Royal Commission of 1905 expressed the opinion that the adoption of pension systems in New South Wales and in Victoria had not appreciably lowered the amounts voted for charitable purposes by the governments of those colonies. The experience of Denmark may also be cited. The expenditure for poor relief has increased since the adoption of the old age pension system in 1891. When the system was established it was expected that the cost of poor relief would decrease to some extent, if not proportionately to the grant of old age relief. For a few years this expectation was realized. Since 1896, however, the amount expended for poor relief has steadily increased, and in 1907 the amount

thus expended exceeded the expenditure for 1890 by nearly 1,000,000 kroner ($250,000). The total expenditure for poor relief in 1896, when it reached low level, was 7,105,000 kroner ($1,776,000); in 1907 it was 9,177,474 kroner ($2,294,368).

In this connection, the fact disclosed by the report of the British Royal Commission of 1909 on the Poor Laws that the number of indoor paupers has increased in proportion to the population since 1900 is significant. The last annual report of the Local Government Board shows also an increase of the number of in-door paupers of all ages during the last six months of 1908. The report of the Royal Commission on the Aged Poor connects this recent increase of in-door pauperism with the movement for old age pensions, which culminated in the enactment of the law of 1908. The commissioners state that this movement has created a general feeling that state is able and willing to make provision for parents whose sons fail to support them. The natural consequence of the weakening of filial obligation has been an increase of the number of aged paupers.

It is not difficult to understand why poor relief expenditure fails to be diminished by the establishment of a pension system. In the first place, a pension system hardly touches the mass of the almshouse population. The majority of inmates of pauper institutions are there not because of poverty alone, but because of disease, infirmity, or affliction, which necessitates institutional residence. The grant of a pension will not take such persons out of the institutions. It appears, for example, that about 92 per cent of the aged almshouse population in Massachusetts are incapacitated in whole or in part. This incapacity is found to be result of sickness in 71 per cent of the cases, of accident in 15 per cent, and of old age in 32 per cent. Futhermore, it appears that less than 8 per cent of the aged almshouse inmates have relatives living who are able or willing to help support them. In the second place, the more liberal policy of dealing with the aged under a gen-

eral pension system reacts also on the methods of pauper relief. The effect is to promote larger expenditure for charitable purposes. The pension system sets the pace for a more generous administration of the poor laws. Finally, the tendency of a pension system is to cultivate in the population at large a disposition to rely upon the State, and to take advantage of opportunities of public assistance to the utmost degree. The individual relaxes his effort to make independent provision for himself. The spirit of self-reliance, self-support, and self-respect tends to decline. Mr. C. S. Loch, secretary of the London Charity Organization Society, in commenting upon the recent tendency of pauperism to increase in Great Britain, remarks: "The evidence is ample that it is due to that public opinion which of late years has minimized the evils of State dependence and the responsibilities of family obligation, and has advocated schemes for old age pensions and other measures that cannot but tend to weaken the sense of social duty and lower the standard of personal independence in the community."

With respect to the effects of partial non-contributory schemes on wages, on character and efficiency, and on family, in the absence of conclusive evidence it is possible only to lay down certain *a priori* generalizations.

It seems clear that the grant of pensions by the State, without contributory payments on the part of the beneficiaries, must tend in the long run to lower the rate of wages. In the first place, the effect of pension subsidies granted by any state must be to attract wage-earners from outside, and thus to crowd the labor market, at least for a time. Even if a period of residence were required as a condition of participation in the pension system, its existence would, nevertheless, operate to some extent as an inducement to workers to take up their residence in the pensioning state. This could hardly fail to react unfavorably upon the wage rate. It is true, to be sure, that this artificial stimulus to immigration would in time be diminished in proportion to any reduction of the wage rate which attended the operation of the pension system; but in the beginning there would un-

questionably be an inducement to influx of workers into the pensioning state.

Furthermore, the direct competition of the pensioned aged workers would tend somewhat to depress wages. Clearly, if a part of the workers in any employment are pensioned by the State, they can, if they choose, underbid competitors who are not in receipt of such aid. The force of this influence depends largely upon the age at which pensions are granted, and the amount of the pension given. In the case of a pension system that provided liberal pensions at an early age, the effect on wages would be marked. Obviously, a pension of $500 a year to all workers over 50 years of age would affect the rate of wages most unfavorably in the manner described. If, however, the pensionable age were fixed at 70, the liability of depression of the wage rate through the competition of pensioned workers would not be considerable, especially if the amount of the pension were small, as in the existing pension schemes of European countries. This direct competition of the pensioned workers is probably a negligible factor so far as the existing systems of old age pensions are concerned.

Far more serious in its effect on wages would be the reflex competition, as it may be termed, created by the pension system. This is the influence of the prospect of a State subsidy in old age in relation to the wage requirements of adult workers in general. If the State granted gratuitous pensions for old age, this fact would doubtless be taken into account by workers, and the rate of wages that they would demand or require would be reduced correspondingly. That is to say, the prospect of a State subsidy would reduce the need of individual saving; wage-earners, not being under the necessity of making full provision for old age, could afford to work for lower wages. In short, the amount of the pension would be discounted in advance by the workers in their competition for employment.

Finally, the effect on wages of the tax burden imposed by a pension system, must be taken into account. The

taxes to defray the expenses of a non-contributory pension system, or of a subsidized pension or insurance scheme, would, in the first instance, fall largely upon the industries of any State adopting such a plan. It is clear that the manufacturers would make an effort to shift this burden, so far as possible, upon consumers or upon employees, in the form of higher prices or lower wages. The former course would be practically impossible in the case of industries subject to interstate competition. The general tendency, then, would be to lower wages.

The liability of a depression of wages through indirect competition, as it has been termed, appears to be the chief consideration here. Of course, the extent of the reduction of wages that might be brought about through this influence would depend upon the provisions of the pension system, especially upon the amount of the pension and the conditions of eligibility. It is clear, for example, that if large pensions were provided for all aged persons, without any restriction whatever as to eligibility, the effect must be to lower wages to a marked degree. With pensions of small amount and with stringent conditions of administration, the effect upon the wages would be less marked; but even then the prospect of pensions would doubtless operate as a barrier to advances of wages which otherwise the working class might obtain. It is to be feared, therefore, that the establishment of a subsidized pension or insurance system would stand in the way of realization of the ideal of an adequate living wage. If the State undertakes to support aged workers in whole or in part, the effect must be to lower proportionately the actual or potential rate of wages in the pensioning State.

The influence of a non-contributory pension scheme upon character and efficiency would undoubtedly be as unfavorable as the effect upon wages. The motives and energies of self-help would be weakened by this form of state help. The assurance of public support in old age unattended by any degree of discredit attached to its acceptance would lead wage-earners to relax their efforts to

make independent provision for their declining years. It would weaken the incentives to individual saving. This seems so obvious that it is surprising to find amoung professional economists any dissent on this question. Professor Henry R. Seager, however, not only denies that a non-contributory pension scheme will discourage saving, but goes even further and contends that it will have the positive effect of quickening the development of that spirit of independence and self-help, which lies at the basis of all true progress. "The new policy," he believes, "far from discouraging thrift and foresight, will tend on the whole to encourage them."

This prediction seems opposed to the common habits and usual tendencies of human nature. The thrift habit is not instinctive and universal; it is the rare product of careful training. It is extremely hard to build up and very easy to break down. The aim of modern poor law reform has been to cultivate this habit by penalizing unthrift and stigmatizing dependency. The enactment of the British old age pension act of 1908 means abandonment of this approved policy of conserving thrift, and reversion to the discredited methods of general out-door relief. The gravest consequences are to be apprehended from the change. It threatens disaster to voluntary agencies for the encouragement of saving, such as the friendly societies. The unfortunate influence of the pension system upon these organizations was the subject of serious discussion at the recent annual meeting of the friendly societies. The general expectation that the old age pension system will soon be supplemented by state insurance against sickness and accident has operated to the further disadvantage of the friendly societies. It needs no argument to show that this check to the growth of voluntary thrift agencies is a most serious evil, moral as well as economic. In general, moreover, the new pension policy must exert an enervating and demoralizing influence upon character, lessening the sense of personal responsibility and self-reliance, and sapping the foundations of individual initiative and ambition.

A non-contributory pension is simply poor relief in disguised form. The acceptance of such a dole is hardly compatible with a vigorous spirit of self-supporting and self-respecting independence.

In a similar way, the non-contributory pension policy would weaken the bonds of family solidarity. It would take away, in part, the filial obligation for the support of aged parents, which is one of the main ties that hold the family together. The supporters of this policy deny that this result would follow. They contend that, on the contrary, their plan would strengthen the family institution; they reason that the payment of small pensions to old persons would help to keep families together by making it possible for the children to retain the aged parent in the household in view of the addition that his pension would bring to the family income. While this might be true in individual cases, it can hardly be doubted that the general effect on the family would be disintegrating. The assumption by the State of the obligations to support the aged in their homes would undermine filial responsibility, precisely as the guarantee of public maintenance of children would destroy parental responsibility. The impairment of family integrity is, in fact, one of the most serious dangers threatened by recent experiments with non-contributory pensions.

(2) The compulsory insurance system of Germany presents a direct contrast to the non-contributory pension schemes of Great Britain and her colonies. The latter are based on the principle that the obligation to support the aged rests upon the state, and that the superannuated worker may claim a pension of the State as a right, not as a charity. The German plan is founded on the opposite principle that the obligation to provide for old age rests upon the individual, and that the State should enforce the performance of this duty and at the same time facilitate the required provision for old age through the compulsory co-operation of employers and the payment of state subsidies to the insured.

The German system of compulsory insurance has been in operation long enough to demonstrate to some extent its social effects. In the main, the results must be pronounced satisfactory. The plan is unquestionably the most effective and successful scheme of old age support now in existence. The attitude of public opinion in Germany toward the compulsory insurance laws is generally favorable. Recent testimony as to the successful working of the system is furnished by Mr. Frederick L. Hoffman, statistician of the Prudential Insurance Company, who in the summer of 1909 visited Germany and studied the operation of the compulsory insurance laws. Mr. Hoffman states:

"There is much discontent with the administration of the insurance laws, but the system itself is so well thought of that repeal of the law is out of the question. There is no dissenting opinion, even on the part of life insurance managers, that government insurance has resulted in far-reaching reforms, that it has been of vast benefit to the people and to the nation at large, and that it has come to stay. . . . The interests of capital and labor have certainly been harmonized remarkably in Germany, and, speaking from personal observation extending over a generation, the contrast of to-day with the past is truly marvelous. How far government insurance has had a share in this progress it is of course impossible to say; but all with whom I have discussed the subject are but of one mind,—that the effect, on the whole, has been decidely for good. It is admitted that the system has not brought industrial peace, and that the socialists were never so powerful as they are to-day; it is conceded that there is much complaint and much discontent; but the evidence otherwise is superabundant that the skilled German workman in the large cities is decidedly well off in a material way, that he is well housed, well fed, and on the whole well paid."

A further extension of old age and invalidity insurance to include adequate provision for dependent survivors in case of the death of the insured, is proposed in the draft of a new law submitted by the Chancellor to the Bundesrath, in April, 1909. This law also co-ordinates the various branches of the insurance into a complete system that will furnish protection to the working-man in all the emergencies of life, except unemployment. This contemplated extension of the system is in itself evidence of its generally satisfactory results.

The effect of compulsory insurance on the extent of pauperism and the expenditure for poor relief in Germany can not be statistically determined. Whether the establishment of the system has resulted in diminution of pauper-

ism and reduction of the financial burden of poor relief, or the reverse, has been much discussed. Professor Henry W. Farnam, who has made an examination of statistical data and other information bearing on this question is of the opinion that the burden of poor relief has not been diminished in consequence of the insurance laws. Recent data relating to the effect of compulsory insurance on poor relief expenditure were obtained by Mr. Hoffman in the course of his recent investigation of the insurance laws. He made inquiries on this subject in Berlin, Cologne, and other German cities. The burgomaster of Cologne was emphatic in the opinion that the insurance system had materially reduced the poor law expenses of that city. But the figures of per capita cost of out-door poor support in recent years do not sustain this contention that government insurance has reduced pauperism in Cologne. The per capita cost increased from 5.07 marks in 1897 to 5.56 marks in 1902 and to 6.38 marks in 1907. The net cost to the city, exclusive of income from funds invested for charitable purposes, was 3.42 marks per capita in 1897, 4.32 marks in 1902, and 5.29 marks in 1907. Again, the President of the Imperial Insurance Office in Berlin is quoted by Mr. Hoffman as expressing the opinion that a decided and general reduction of poor relief resulting from government insurance cannot be statistically established. Finally, Dr. Emil Münsterberg, the most eminent European authority on poor law administration, is cited by Mr. Hoffman as expressing agreement with this opinion. It is argued, however, that the primary intent of the insurance system is not to reach the pauper class, but rather to conserve the economic resources of the real wage-earning population, and to keep its members from becoming a burden upon charity in sickness, accident or old age. This object the insurance laws have unquestionably accomplished.

Regarding the effect of compulsory insurance upon wages, it is more difficult to generalize with confidence than in the case of non-contributory pensions. So far as the State pays subsidies to the insured, the tendency is doubtless to

cause a proportionate reduction of wages; these subsidies are discounted in the competition of the labor market, just as would be non-contributory pensions. To a certain extent, also, the compulsory contributions of employers are shifted upon the workers in the form of lowered wages. The view that the employers' contributions must in the long run be paid by the working man is accepted by President Hadley who reasons thus: "The payments to the insurance funds must chiefly, if not wholly, come out of wages. Even tho they be nominally levied on the employer, he is compelled, by competition with other employers not subject to this levy, to reduce in corresponding degree the wages he pays."

This argument is based on the assumption that the employers who have to pay insurance contributions are in all cases subject to competition with other employers not thus burdened. This would probably hold true, in general, of any American state adopting an insurance system like the German; the tendency would be to a reduction of wages as argued by President Hadley. In Germany, however, the rate of wages has actually risen, instead of fallen, since the introduction of compulsory old age insurance. It is conceivable that the effect has been to prevent so great an advance in wages as otherwise might have taken place, but it is clear that the laws have not imposed any impassible barrier to the advance of wages. The cost of German old age insurance has certainly not come out of wages in any large part. The burden of supporting the system has been divided between the State, the employer, and the employed, —in what proportion it is impossible to determine.

In estimating the likelihood of a reduction of wages under the operation of a compulsory insurance system supported partly by contributions from employers, account must be taken of the social condition of the wage-earners, particularly the education and the organization of the working class, and of the attitude of public opinion as affecting the ability of the class to resist pressure on the wage rate. It must further be considered whether any increase of efficien-

cy on the part of labor is brought about by the insurance system as an offset to the tendency toward reduction of wages. In general, however, it must be recognized that the effect on wages of an insurance system supported partly by assessments on employers would probably be unfavorable, especially if the system were established in a single American state, since most branches of industry are subject to inter-state competition.

The influence of compulsory insurance on character and efficiency, as well as on family life, would manifestly be far less injurious than that of non-contributory pensions. It is evident, however, that any compulsory system must to a certain degree exercise an enervating influence on wage-earners. Compulsion is not favorable to the highest development of individual initiative, independence, responsibility, and self-reliance. Full individual responsibility as regards provision for old age exerts a healthful stimulative and educative effect on the individual. From the point of view of social effects, a voluntary system is certainly preferable to a compulsory. There is an inevitable weakening of vigor and resourcefulness under any compulsory scheme of social reform.

(3) The voluntary annuity schemes recently instituted in Canada and Massachusetts are not open to the objections which have been pointed out in the case of non-contributory pensions and compulsory insurance plans. The former exercise no unfavorable influence on wages, on character and efficiency, or on the family. The social effects of voluntary insurance, so far as it can be made practically effective, are clearly beneficial. The only objection that can be urged against the annuity systems relates to their practicability as a general solution of the problem of providing for old age support. It is maintained that no voluntary system of insurance can reach the class of low-paid laborers most in need of special provision for old age. Any voluntary scheme must, it is argued, be extremely limited in its application; it can never become general, including all members of the wage-earning population. The late Professor A.

Sheaffle has put this argument affectively: "Experience has everywhere demonstrated that the great mass of those working men who are poorly off will not voluntarily insure themselves. Furthermore, the great majority of those who would like to do so cannot, on account of the smallness of their earnings. In other words, it is exactly that class which is most in need of insurance that either will not or cannot avail themselves of this device. This is the fundamental weakness of voluntary insurance. It fails to reach the class most in need of it."

The annuity systems of Canada and Massachusetts have been too short a time in operation to demonstrate their possibilities. The Massachusetts Savings Bank Insurance plan went into operation in June, 1908, and the Canadian Government Annuities System in January, 1909. The reports of the operation of the two laws show, however, that thus far only slight use has been made of the provisions for the purchase of annuities. During the first year of the operation of the Massachusetts Savings Bank Insurance Act, ending October 31, 1909, only 32 annuity contracts were issued, representing an annual payment in premiums of $5408. The Canadian system naturally makes a somewhat better showing in this respect, as it deals exclusively in annuities, selling no insurance. During the first seven months of operation, ending July 31, 1909, 288 annuity contracts were issued, including 44 immediate annuities and 244 deferred annuities, representing payments in purchase money and premiums of $206,410.15. The Commissioner of Government Annuities is making vigorous efforts to bring the system to the general attention of working people and employers, but with only moderate success. The longer experience of the British Postal Annuities System, established in 1864, is significant in this connection as showing the difficulty of bringing a plan of voluntary insurance into effective general use. The number of annuities issued through the post offices is very small. During the last ten years the average number of new annuity contracts issued annually has been about 150, and the total amount of insurance represented has averaged only

$15,000 per year. As compared with the business done by the private insurance companies the results of the post office insurance system must be termed insignificant. In forty years the government issued through the post offices only about the same number of policies that the London Prudential writes in ten days. It must seriously be questioned whether the Massachusetts system of savings bank insurance or the Canadian plan of government annuities can be so extended as to constitute a satisfactory solution of the problem of old age pensions.

Each of the three plans of old age provision which have been considered—non-contributory pensions, compulsory insurance, and voluntary annuity schemes—has been found to be objectionable or inadequate in certain respects.

The non-contributory system was adopted by Great Britain as a measure of last resort under the pressure of irresistible demand for a sweeping measure of old age relief. This demand arose from certain social conditions which fortunately have no parallel in any American state. Pauperism in general and old age pauperism in particular are far more prevalent in England than in the United States. The recent investigation by the Massachusetts Commission on Old Age Pensions shows that there is no alarming amount of old age destitution in this state. The comparative statistics of pauperism in Great Britain and Massachusetts show a strikingly small proportion of old age dependency in the latter Commonwealth, as contrasted with Great Britain. The number of paupers of all ages per one thousand of the population is only 8.5 in Massachusetts, as contrasted with 24.2 in the United Kingdom; the number of paupers 65 years of age and over per one thousand of the population of the same age, is only 31.7 in Massachusetts, as against 172 in the United Kingdom; and finally the percentage of paupers 65 years of age and over, in the total pauper population, is only 20.3 in Massachusetts as compared with 35 in the United Kingdom. Fortunately there is in Massachusetts, and presumably in other American states, no such mass of poverty and distress as would call irresistibly for the institution of

sweeping pension schemes. An old age pension system of a non-contributory character is a counsel of despair. Great Britain was driven to adopt this policy by the popular demand growing out of intolerable social conditions. This excuse for pension legislation does not exist in any American state. The establishment of a non-contributory pension system in this country would lack even the slight measure of justification which may be urged in defence of the British legislation.

The adoption of any scheme of compulsory insurance, furthermore, appears to be inexpedient in this country at the present time. The practical, constitutional, and ethical objections to such action are weighty. The idea of compulsion is essentially distasteful to Americans. It was the natural dislike of Englishmen for compulsion of any sort which led to the rejection of compulsory insurance plans proposed in that country. The proposal of compulsory insurance is, furthermore, of doubtful constitutionality. It raises the question of the constitutionality of a law obliging wage-earners to set aside a certain percentage of their earnings to provide annuities for themselves in old age. If it could be shown that the effect of the compulsion would be to diminish pauperism and protect the State against the burden of old age dependency, such exercise of compulsion might conceivably be justified as a preventive measure of poor relief. This consideration, however, seems to be the only one that could be consistently urged in support of the constitutionality of compulsory insurance. There is grave doubt whether this consideration would be held by the courts to justify a compulsory insurance law. Finally, there is the objection on the ground of the paternalizing and enervating influence of compulsion upon character.

In view of these objections it would be unwise to resort to compulsion in dealing with the problem of old age insurance at the present time. It is conceivable, however, that the ultimate solution of this problem may be found in some system of obligatory state insurance. The principle of compulsory education has been adopted and widely extend-

ed; the principle of compulsory sanitation has been applied in various directions. Compulsory insurance has been defended as a needful measure of further state interference for the protection of society against the burden of old age pauperism, precisely as compulsory education and sanitation have been adopted to protect society against ignorance and disease. The final solution here suggested, however, lies so far in the future that it would be idle to consider it at this time.

The proper course of action for the immediate future in dealing with the pension problem in American states consists in the development and extension of various agencies of voluntary saving. Whatever is done in this field should be in harmony with the principle that provision for old age should be a charge upon wages to be borne by the wage-earner. The ideal of a living wage, which should govern all that may be done in this field, demands a wage adequate not only for the support of the average family in reasonable comfort, but also for provision through saving, against all the emergencies of life, sickness, accident, and old age. No measure of old age relief should be adopted which would reduce wages or stand in the way of the future advance of wages to an adequate living basis. This fundamental consideration must be kept steadily in view.

A program in harmony with this consideration may be constructed as follows:

1. The establishment of retirement systems for public employees based on the contributory principle. The expenses of such pension schemes should be divided between the employees and the state, county, city or town. It is logical that the public corporation as an employer of labor should contribute something to the funds out of which allowances to superannuated employees are paid. Such contributions may be regarded as of the nature of extra compensation for long, faithful, and efficient service. That is to say, in addition to payment of current wages the public employer may properly offer a special additional allowance in the form of contributions to retirement funds for workers who remain

in the service a certain period of years and reach a specified age, meanwhile contributing from their wages to provide insurance for their old age. Thus far in the United States only a small beginning has been made in the field of pensions for public employees. There is no general legislation on this subject, either national or state. No American city has yet established a general pension system for all employees. The existing provisions for municipal pensions are confined to certain classes of employees, notably policemen, firemen, and teachers. The general establishment of retirement systems for the employees of national, state, and local governments would provide old age insurance for one large class of the wage-earning population.

2. The institution of contributory retirement systems by corporations and large employers of labor. Public service corporations especially can safely and profitably undertake this form of welfare enterprise. The recent rapid extension of pension and insurance systems among public service corporations in this country is an important movement toward the solution of the old age pension problem. The Massachusetts Commission obtained information concerning fifty of these schemes, twenty-eight of which are maintained by railway companies and twenty-two by industrial, commercial, or banking establishments. It is unfortunate, however, that the majority of these schemes are wholly non-contributory. Whatever is done in the future in the way of extending retirement systems for employees of corporations should be based upon the contributory principle; the expense should be borne jointly by employer and employed, as in the case of public pension systems. The general establishment of retirement systems for employees of corporations would make provision for another large group of the working class.

3. The extension of the agencies that afford opportunity for old age insurance, including private associations, such as trade unions, beneficiary societies, and the like, and public schemes of voluntary insurance, such as the Canadian and Massachusetts annuity systems. This class of insurance can hardly be expected to reach the great mass of unskilled and

low-paid labor, for the reasons already set forth. The higher ranks of skilled labor and of salaried employment can, however, be adequately provided with old age insurance through these agencies. It is desirable that any obstacles which may now lie in the way of the extension of voluntary thrift institutions be removed. To this end the laws governing the operation of fraternal, beneficiary corporations, which in many states now prevent the payment of old age benefits, should be amended so as to enable these societies to provide old age insurance for their members under supervision by the state insurance department. Another measure designed to promote individual saving and strengthen voluntary thrift agencies, which was recommended by the Massachusetts Commission and adopted by the last legislature, is compulsory instruction in thrift in the public schools. This project is not purely theoretical or fanciful, for the subject of thrift is taught effectively in the public schools of European countries, notably in France and Germany.

4. The adoption of preventive measures designed to reduce the volume of old age dependency. Adequate provisions for industrial education will eventually accomplish substantial results toward this end. Measures calculated to diminish the amount of sickness and accident and to provide satisfactory compensation for industrial injuries are also of vital importance in this connection. Whatever can be done to check economic waste from this source, which is now a large factor in producing old age pauperism, will contribute directly to the solution of the pension problem.

5. The creation of a permanent state commission or commissions of old age insurance. The chief function of such a department would be to act as a bureau of information and assistance to employers and employees and particularly to aid and advise them regarding the establishment of retirement systems. The extension of retirement systems in the field of corporate and public employment could be promoted and directed by such a bureau. The bureau could also render important service by studying the operation of various agencies, public or private, that have been created for deal-

ing with the problem of old age pensions and guiding future legislation on this subject by exact knowledge of facts.

The fundamental object of the policies here outlined is to conserve and strengthen habits of voluntary saving and to create and extend agencies providing for its exercise. There will doubtless remain a certain residuum of low-paid labor which cannot be provided for in respect to old age insurance through measures of this character. It is difficult, indeed, to see how this unfortunate group could be dealt with effectively even under a compulsory insurance system. Irregular employment and insufficient wages place a certain percentage of the working class beyond the reach of any insurance system. The present poor laws are designed, however, to meet precisely this need of provision for a class that cannot be trained to economic competency and self-supporting independence throughout all the period of life. It would be a disastrous policy to institute any system of gratuitous pensions for the particular benefit of this unfortunate class. The number in the class is not large in the American states. By establishing a pension system for the benefit of the small minority of wage-earners who may possibly need such aid the State would strike a blow at the resources of voluntary thrift, individual responsibility, and family integrity which have enabled the great majority of the population to maintain themselves in self-supporting independence. In the impatient effort to help things forward at a faster pace we should, by attempting an experiment of this kind, immediately retard and ultimately reverse the normal process of social betterment.

Charities and the Commons. 20: 343-7. June 6, 1908.

Poverty and Insurance for the Unemployed.

Belle Lindner Israels.

Insurance for the unemployed is a comparatively new question. During the last decade it has attracted much attention in Germany and in nearly all of the more progressive countries it has received consideration.

Investigation of the question as it affects Germany was conquest upon a resolution passed in the *Reichstag* in January 31, 1902, by which the chancellor of the empire was requested to appoint a special commission to conduct a careful inquiry into the systems of insurance of this character in existence up to this time, and to formulate a plan for their efficient development. This resolution was finally referred to the Imperial Bureau of Statistics in November of the same year and, in complying with its provisions, the Department of Labor Statistics made an investigation of the systems in vogue in Germany and in foreign countries, with a thoroughness never attempted prior to that time.

The results of this investigation were published in three volumes in 1906 under the title: The Present Arrangements for Insurance Against the Lack of Employment in Foreign Countries and in the German Empire. Part I, Insurance Against the Results of Lack of Employment. Part II, The Status of Co-operative Employment Bureaus in the German Empire (Public and Private). Part III, Appendix to Part I; Statistics, Laws, Ordinances and Statutes compiled by the Imperial Statistical Bureau, Department of Labor Statistics, Karl Heymans, Publisher, Berlin, 1906.

Charitable relief is the oldest form of care of the unemployed. To a certain extent it was the mother of all care especially at a time when labor organizations were but little developed and not in a position to help their members over a season of idleness. Most laboring people are without appreciable means and dependent upon their work, and a considerable number are not in a position to save such amounts

as will suffice to support a family for any length of time. Consequently the tendency of any long period of idleness is toward poverty; even though in actual practice the credit of the storekeeper, the consumer's society or the landlord enables many individuals to avoid this condition.

Poverty easily drags the poor man down, weakens him physically, diminishes his moral resistance, makes him less valuable as a working force, and frequently leads to lack of employment, as at every crisis or industrial depression the mediocre working men and women are the first to be dismissed. In individual cases it is often difficult to determine if poverty is the result of idleness, or idleness the result of poverty. In this connection the portion of the report of the commission of inquiry dealing with the condition of the unemployed in Basle is specially instructive. In the Canton of Basle the work for the amelioration of the condition of the unemployed assumed, to a large extent, the character of charitable relief. "as among those registered there were many cases in which it was difficult to determine if the straits in which the workers found themselves should be attributed to lack of employment or general poverty caused by a large number of children, intemperate habits, laziness or unfitness for work." This interdependence of lack of work and poverty is emphasized by the facts contained in the Basle report: "that among the unemployed there is a regular clientele without work a greater part of the time as well as a large number who, while receiving the help on account of such condition, are also the recipients of charitable relief through the ordinary channels."

Insurance for the unemployed is about fifteen years old. Up to that time the interdependence of poverty and lack of work was considered axiomatic as a condition which could not be avoided by any assistance towards self-help. Private charity supplemented public relief and where these ended the church and the province bore the burden, or various religious organizations created work for the unemployed during times of greatest depression. In a number of German states the acceptance of public relief made the situation even

more oppressive as the forfeiture of certain political rights was one of the conditions imposed. Co-incident with the beginnings of the labor organizations about 1890, the views of the workingmen on these questions underwent a change. In the struggle for political rights they felt these conditions particularly oppressive, which caused them to lose part of such rights, if by reason of undeserved loss or lack of employment they became dependents on charity or if they were compelled to join the ranks of the poor for whose support the public made itself responsible. From the point of view of the workingmen, it was the duty of the state to provide work in case of enforced lack of employment or to support the unemployed. In Switzerland they even made a formal but unsuccessful demand upon the government for the recognition of this principle.

The formation of a system for securing employment was, therefore, the first move of organizations beyond the mere giving of relief. During the past fifteen years Germany has witnessed a development in this direction which, though incomplete and insufficient still, goes much further than it was thought possible at the beginning of the movement; as on one side through the public agencies the conditions of enforced idleness are being met by organized systems of securing work, so on the other hand the system of self-help has been inaugurated by the labor organizations through which the workingmen support such of their own number as are unemployed. Although at its inception this work was started from a purely charitable point of view, it gradually became evident that the support of the men out of work not only helped the unemployed but also reacted to the advantage of others who had employment, as the unemployed men no longer underbid the actual workers in the labor market. It was also demonstrated that it was a valuable instrument in furthering the workingman's policy of maintaining the standard of living. This form of self-help owes its development during the last ten years to the recognition of its value as an economic factor, which is evidenced by the fact that in 1904 the English labor unions spent three and one-half mil-

lion dollars and the German labor organizations about half a million dollars for the support of the unemployed.

The workingmen and the public agencies simultaneously attacked the problem of separation between help for the unemployed and the care of the poor. Assistance given as charity was refused by the workingmen in cases of enforced idleness, and a strict separation was demanded between assistance required by reason of lack of means and such support of the unemployed as would prevent poverty taking root. The giving of alms was rejected as a solution of the problem and, in consequence, ideas crystallized themselves in a demand for a system of public insurance for the unemployed which would, in conception and in fact, most strictly separate itself from the common forms of charitable relief.

In recognition of this fact all further development rejected any semblance of relief and to-day in practice the two divisions are very sharply differentiated. On the one side there are the unorganized workmen who possess neither the initiative nor the capability to subscribe to the treasuries for the unemployed, and who are therefore the first to become the victims of charity in case the effort to secure work for them, or to put them in the way of finding it proves unsuccessful. On the other side are the organized workmen who help themselves either through their unions or as subscribers to funds for the unemployed, and who strictly avoid communication with ordinary relief agencies.

Mixed forms of relief-giving as practiced by the Basle Commission for the Unemployed are regarded as an unfortunate solution of the difficulty even by those participating, and the report of this commission makes it plain that absolute separation is now demanded so that insurance for the unemployed and the giving of charity shall have no connecting link.

In contra-distinction to public relief-giving in Germany, we can cite but one positive factor giving the figures for the relief of the unemployed as distributed by the labor organizations which in 1904 disbursed about half a million dollars and during 1905 these figures, together with travelling ex-

penses, reached $750,000.00. It is true, however, that this comparison is not altogether reliable. The care of the poor and the expenditure required for the purpose necessarily deal largely with the solution of the problem which must remain within the province of relief-giving, even in the complete attainment of a satisfactory system of insurance for the unemployed. The sick poor, families of habitual drunkards or those with an unusually large number of children, homes left destitute by the death of the bread winner, the burial of the dead, and similar cases are all problems that go much further than the confines of relief for the unemployed even when drawn as wide as possible. It is useful, however, to know how large a field must remain in any case for charity and poor-relief, so that the knowledge of these difficulties will assist in bounding any scheme for carrying out a system of insurance for the unemployed.

In the presentation of the conclusions reached by the official report in the *National Labor Journal,* the solutions hitherto tried in the field of insurance for the unemployed are divided into four groups; self-help, obligatory insurance, facultative insurance, and assistance to self-help from public funds under conditions requiring the forfeiture of private insurance. These divisions as made in the official report, are also useful as a guide to their final consideration.

Obligatory insurance is the only one which does away with initiative and replaces it by compulsion. It premises experience to show that the workman does not provide for times of enforced idleness, either because he is not in a position to do so or because of neglect. Compulsion in this direction is the foundation of the other great German labor insurance organizations, and it is therefore probable that all projects through which an attempt is being made to solve the question are more or less committed to the idea of obligatory insurance. The difficulties which face an obligatory solution through the labor organizations are only comparatively larger than those to be found in other forms of insurance.

It requires a considerable measure of foresight to partici-

pate in a facultative workingman's fund requiring regular payment of dues for the support of the organization in addition to the payments necessary to carry out the work of self-help. This measure of efficiency, foresight and initiative will always be present, at least to a limited extent, even though no difficulties face the organizations in securing the opportunities for self-help. It is to be presumed that every indication of growth on the part of the organization will show a corresponding growth in the development of the methods of self-help.

The growth of the organization will be governed to only a small extent by the giving of public subsidies. In the main it is dependent upon other factors but with no closer connection with the question of insurance for the unemployed, thereby indicating the narrow limitations of a system which would attempt to solve this question by subsidizing the methods of self-help, inaugurated by the working classes. Under these systems of self-help aid is given only to those who by participation are already helping themselves, and not to those who do not help themselves and who have no power to do so. All of these solutions leave these classes to be dealt with first and last by systems of charity and poor relief. The greatest efficiency is therefore reached by obligatory insurance, as it is far more reaching in its effect, although its execution presents the most difficulties, due to the fact that the determination of the worthy unemployed is particularly difficult, as in practice it is complicated by the fact that the deserving man not being indicated by any outward sign, requires special investigation.

Public insurance for the unemployed should and would generally insure only against involuntary and undeserved lack of employment on the part of efficient men caused by absence of work. This system would by no means insure against every lack of employment. It would only protect against that which is dependent upon industrial conditions and not upon personal disposition, dealings or expression of opinion on the part of the individual who is unemployed. Upon the proportion to which this may be proven depends the right to assistance.

The aim of this insurance is accomplished when the individual is directed towards suitable employment, and the proof of undeserved lack of employment on the part of the man who is worthy of assistance is his acceptance of this work.

As standards are in a large measure a matter of dispute, a consistent determination of the beginning, duration and end of a period of lack of employment, having a depressing effect upon industrial conditions, is difficult in the case of each workman, as these standards are not always outwardly recognizable, and although the control which obligatory insurance gives operates through general conditions, it still exercises an unusually large influence in the individual cases.

Insurance for the unemployed is differentiated from other forms of insurance in that it would not operate in occasional instances but only to meet an industrial condition affecting the mass, and although this makes it easier to determine the exact time when actual lack of work begins, it makes the control of its duration and its end more difficult as the important thing to be guarded against in obligatory insurance is that it shall not become an incentive to simulation and deceit on the part of the lazy and inefficient at the expense of the industrious and efficient.

This suggests what it might mean in Berlin when, even at a moderate estimate (using but one-half of the figures of 1902, taken under an unfortunate combination of circumstances) it would be necessary to exercise daily control over 30,000 unemployed, to know their identity and their secondary occupations and, in addition, whether suitable work could or could not be found for each one of them. If in your conception of workingmen's insurance you take in the entire laboring population so as to include women and those who work at home, the problem of control increases in the same ratio. The control is unequal to the burdens to be put upon it. Even if it can be exercised over the enormous area reached by the employment bureau, which is not at all certain, it still does not indicate anything which could be taken as definitely indicating the real existence of a condition of

lack of work. To be complete this control would have to be exercised through supervision outside the usual channels and in the home, which could hardly be carried out practically and against which the workmen themselves would protest. Where there is no bureau for finding work this supervision soon reaches its limit.

For the same reasons supervision of workmen in the same trade is inefficient in places where there are no organizations whatever, and in the case of unorganized men who are here to-day and gone to-morrow.

This solution, which in itself seems to be the most efficient, has therefore to overcome many internal difficulties in the matter of supervision, in compelling the acceptance of work and in deciding upon requests for assistance. It has only been tried once in St. Gall, and there it failed probably through insufficient organization, but certainly because of the innate difficulties bound up with its operation and indicated in this statement.

This situation appears to show that the carrying out of a system of obligatory insurance is accompanied by the maximum number of difficulties, and that other solutions are only possible where self-help has already assisted or has at least made a beginning in that direction, and we are still faced by the problem: How is it possible to replace the giving of charity and poor relief where the individual initiative necessary to make provision for the future is wanting?

An illustration of the significant results obtained by the employment bureau is furnished by the Cologne Unemployed Insurance Fund, whose bureau has succeeded in providing almost every member who got out of work with permanent or temporary employment. In the year 1905-6, 1,087 members of this fund, 74 3/10 per cent of the membership, were out of work. Of these 123 received permanent work during waiting time and 902 received temporary occupation, so that only 41 of those insured remained without work during the entire time under discussion, and the fund was compelled to pay for only 13,414 unemployed days, whereas the claims of the insured, had the employment bureau not secured work

for them, would have covered 42,128½ days. The results of the work of this employment bureau lightened the burden of the fund by two-thirds, a proof that insurance for the unemployed cannot be separated from the finding of employment, and that the building up of the employment bureau is of the utmost importance not only in any system of insurance but in dealing with the entire question of the unemployed.

The programs that have been worked out for the German empire by the scientists and other interested students almost all include either self-help and its subsidization or obligatory insurance. Facultative insurance for the unemployed is not considered as a universal solution of the problem. The schemes of Elm and the *Correspondenz-blatt der Gewerkschaften* include the first principle, while those of Lischendoerfer, Herkner, Zacher, Buschmann, Molkenbuhr and Sonnermann accept the obligatory principle. Doctor Freund, Fanny Imle and Berndt recommend a middle course.

Insurance for the sick is necessarily local in its application. In Germany it is made up in round numbers of 23,000 separate funds and this minute sub-division causes it to appear unsuitable for service in the field required by the unemployed.

Likewise, although accident insurance, as a special qualification, has association with the workmen whom it covers, it nevertheless is organized upon a local foundation, and, with the method governing the composition of its directorate, it could not be easily handled so as to form a useful addition to a system of insurance for the unemployed. Invalid and old age insurance misses every intrinsic relation to the workman without which any insurance for the unemployed seems very difficult of accomplishment.

The result does not seem any more hopeful in this direction, if we take into consideration the fact that these systems were called into being in their time for the purpose of satisfying totally different needs, and that their use in the insurance under consideration would be like grafting a new flower on an old tree. Apparently the question of insurance

for the unemployed will be handled internationally in the most diverse ways. France and Norway have taken the lead, and in Denmark definitely formulated propositions are under consideration. On the other hand Belgium and Switzerland have held themselves aloof, while in England the procedure is in another direction. Holland is trying some forms.

The question will apparently be a live one during the next decade and every contribution to its classification will make its solution easier.

Living Age. 268: 443-5. February 18, 1911.

Insurance Against Unemployment.

Of all the diseases that are being slowly but surely isolated, treated and stamped out there is none so infectious as the evil of unemployment that falls like a plague upon the nation once in six or seven years. In one trade work is slack, a few men are turned off; forthwith another trade follows, and then begins a period of short time, distress, unemployment mounting up to 8 or 9 per cent.; an epidemic truly, whereof gaunt cheeks, dull eyes, and shattered humanity infesting every street are the visible results. Now a recurrent epidemic infecting 9 per cent. of the population is one that cries aloud for treatment, drastic treatment inspired by common sense. The thing is infectious, in very truth; the source of one case of unemployment can be found in the distress of others as certainly as measles can be traced to contamination from a neighbor's disease. An obvious instance is that of the small shopkeeper in a neighborhood where employment is bad, but the evil cannot stop with him. The tradesman who supplies him, the manufacturer of his wares, it may be at the other end of England, and the operatives employed by all of them suffer in greater or less degree because trade is bad in the shipyards of Sunderland or the coal mines of Wales. The bootmaker who is unemployed ceases to buy clothes needed by his family, and the clothier next door is out of

work in consequence. The baker, who serves both, suffers in pocket and in larder; indeed the shoeing of his children must be postponed, and the boot trade suffers again by their distress. So the thing grows and spreads in ever-widening circles, till from some countervailing cause the plague is stayed.

The problem of economic health is to isolate and deal with the earliest case, with a view not only or even mainly to mitigate the sufferings of the individuals affected, but to circumscribe and stamp out the evils from which they suffer. A properly devised scheme of compulsory insurance against unemployment should be a means to both ends, meriting support for reasons by no means sentimental. It is no more sentimental to seek an efficient remedy for unemployment than it is to build a fever hospital, and it is just as necessary. Unemployment is infectious.

Compulsory insurance can obviously do something to alleviate the hardships from which invididuals suffer. We believe that it can do much more, and be a most active agent in the prevention of unemployment itself. If the benefits suffice to enable the man who has lost his job to keep his place in the ranks of the consumers, to pay his daily visit to the corner shop, to add his quota to the demand for labor, the factor that makes for the spread of unemployment is eliminated; the unemployed is no longer a danger to his neighbor. But it is useless to blink the fact that an ill-conceived insurance scheme may be as potent for evil as a well-drawn one for good. If it should get about that a man's subsistence is guaranteed whether he works or no—that it is as profitable to sit at home in enjoyment of a public dole as to tramp the streets in search of work—then the numbers of the unemployed will grow not less but more as the conditions of unemployment become less arduous and painful. Failing sufficient safeguards, the wastrel can wreck an insurance scheme as he has wrecked most of the projects devised by the wit of man for the benefit of honest workers.

The true test by which the proposals of the Government must be judged is whether they bid fair on the whole to

reduce unemployment. If they contain no protection against the wastrel, if they offer temptations to the shirker, they will do more harm than good. Unfortunately there will be many influences brought to bear upon the Government to demoralize the Bill, influences of peculiar weight with a politician who claims to be the child and darling of the people. The question of contribution by the workman and the question of discrimination between applicants for benefit are those on which the merits of the Bill will turn.

It is of vital importance that the worker should himself contribute to the insurance fund, partly because unemployment loses its most demoralizing effect upon the man who drawing his benefit can say "I've always paid my money honest." He handles his tools the better when fortune calls on him to take them up. Contribution will also create and maintain a strong public opinion against shirking and drawing benefits without good cause. The worker will feel the loafer on his back, a different thing from knowing him to live upon the spoils of the Egyptians; he may even come to realize that his own faculty of sticking to his last means in the end a reduction in his premiums. Yet, if there is anything certain in politics, it is certain that no Insurance Bill will go through Parliament without some protest against the contributory system, and every man or Minister who votes in favor of contribution by the workers will know that he must suffer for it at the polls; the opinions of the electorate are more sentimental than sound. But the duty of the Unionist party is plain. We believe in compulsory insurance against unemployment; we believe that it may prove much more far-reaching in its good effect than is generally supposed; but we hold it essential that it should be enforced by a measure framed on right lines, and maintained on those lines in spite of all the forces that unreasoning sentimentalism can bring to bear on it.

The gravest danger is lest a Government insurance policy should prove an endowment policy for the wastrel. It must be secured that benefits shall be paid only to the man who is willing to work. So long as the labor exchanges are in a

position to offer a man work at his own trade and at standing wages the solution is simple: he will get no benefit by refusal. Nor is the problem more subtle when the labor exchange has no work to offer: prima facie every insured person out of work is entitled to benefit. In either case benefits should be paid at the labor exchange, and stopped so soon as proper work is offered. The critical point is reached when the labor exchange can offer work, but of a grade inferior to that for which the applicant is qualified. Is a skilled mechanic to be entitled to benefit after refusing the office of a laborer? If nay, he becomes a laborer, and probably remains one; if yea, where is the line to be drawn? Down how many steps in the subtle gradation of the labor hierarchy shall a man be required to move? Can a cabinet-maker refuse joiner's work, or a joiner draw benefits while carpenters are in demand? Either these questions must be settled by the Act, or courts like the Gewerbegericht of Germany must be appointed to assess the dignities of craftsmen.

One evil is beyond the reach of any insurance scheme; the old, overwhelming one of casual labor, of the men who are never fully employed and seldom quite without employment. Men on the "B" lists at the wharves and docks, who work with a kind of regularity for one or two employers, may probably be reached; men on the "C" lists are more difficult; and the man who carries your bag for sixpence is impossible. The problem bristles with difficulties, and the Government if it shows any mind to deal with them seriously will have no difficulty with the Opposition. Is it Quixotic to hope for something better from Mr. Lloyd George than a demonstration of the art of vote-catching? He can so frame his scheme that the Opposition, if honest, must criticize it and try to amend it. Then it will be possible to parade at the next election all these votes or amendments or both against the Bill. The Old-age Pension Bill has shown how it can be done. The Opposition will want evidence as well as honesty. They need not play into the enemy's hands.

Spectator. 102: 807. May 22, 1909.

Compulsory Insurance Against Unemployment.

The most important dangers against which the Government will have to take thought are those of human nature. There is a type of man who would rather be out of work with a small sum to live on than in work with considerably more. He himself, in his too ample leisure, may pick up enough to eat, drink, and smoke to satisfy himself; but his wife and children at home are in a very different case, and if the State made it easier for that type of man to follow his inclinations it would in effect be facilitating cruelty to children and wives. The more a man is guaranteed in the event of unemployment, the more he is tempted to drop out of work. All temptation to do so is absent when the alternative is between comfort and nothing. These are the reasons why we have urged before now that the benefits from any unemployment insurance scheme should be small, and that they should be combined with insurance against sickness, old age, and death. A man thinks twice before laying up for himself a pauper's old age by drawing on his savings. We recognise fully the hard lot of the man who is thrown out of work through no fault of his own, and we would do everything humanly possible to help him. Even where a man has been too careless to save, although he is a good and regular workman, it is possible that the punishment of the workhouse for him and his family is too severe for the fault. But the fatal objection to most insurance schemes—certainly to every Socialistic scheme that ever we heard of—is that they tax the prudent for the advantage of the imprudent. That is abominably wrong, and we could never willingly consent to it. We agree to the principle of compulsion in insurance so that men may be saved in spite of themselves; but how are we to prevent the thriftless from battening on the careful in the process. We must remember that even in Trade-Unions men sometimes draw out-of-work pay unfairly. If this is possible in Unions where the men's circumstances are fairly well known, what would happen when they had to deal

with the quite impersonal organisations of the State? The test of unemployment will be very difficult to apply. The remedy we propose is, as we have just said, not only that the payments should be small, but that they should be combined with insurance against sickness, old age, and death. We are glad to see that the Government mean to organise the insurance by trades. This ought to mean that the insurance will be an extension, not a reversal, of the excellent arrangements already made by the Unions. If the payments under compulsory insurance are moderate, men will be encouraged to remain members of their Unions. This is in every way to be desired. The new scheme would be condemned if it proved to be a vampire to the Trade-Unions,—institutions the country may be proud of, and which ought to be kept in unimpaired vitality. Under a good scheme there would be no need for a State subsidy whatever. Each trade would be responsible for its own insurance fund. Finally, we hope that Parliament will never consent to vest such State-delegated authority in the hands of the Unions, indirectly or directly, that workmen will find it humanly impossible to live or flourish outside the Unions. Personally, we think a man is probably unwise who can belong to a Union and does not do so. But here, as in all circumstances, tyranny is intolerable. Men must neither be bribed nor browbeaten into joining the Trade Societies.

Scribner's Magazine. 49: 116-20. January, 1911.

Experiments in Germany with Unemployment Insurance. Elmer Roberts.

Political thinking in Germany, beginning with the later Bismarckian days, abandoned the idea that the individual alone is responsible for his situation in life, his employment or unemployment, and that somehow inwoven with individual responsibility is the responsibility of society, of the whole state. This way of thinking may now be called the minimum German state socialism, the kind of thinking that is still called radical in Great Britain or in America,

but in Germany is conservative. It became evident to observers that the loss of employment in industrial crises was brought about by events over which the workman could have no control. Besides periodical depressions, the development of immense organizations, formerly unknown, in the management of which the individual workman does not participate and in which there can be no direct bargain between the managing employer and the employed, has brought economists and the paternal governments of German states to the conviction that the state or the local government must justly share responsibily for unemployment and must devise measures for the creation of a fund out of which the unemployed may of right take assistance. The government has therefore in the course of the last twenty-five years abandoned the stand-point of the imperial industrial laws guaranteeing complete liberty of action between the giver of labor and the applicant, and has undertaken to intervene by a policy of protection. This policy of protection for the employee runs parallel with protection of agriculture, of internal trade, of foreign commerce, and through an intricate system of adjustments, between all individuals whether great capitalists or small workmen, and the economic whole. It has been therefore an easy question to dispose of, whether public funds should be used in insurance against the results of unemployment. The majority of those deliberating upon the question in municipal councils or in state commissions have decided that such application of government funds is correct in principle.

The trying to think out and experiment with insurance against the results of intermittent employment is a continuance by German cities and the governments of German states of the striving to squeeze dependent pauperism out of the social system, to round out the imperial insurances begun in the eighties for the widow, the ill, the aged, the orphan, and the disabled. Since the state enforces compulsory education, military service, and precautions for the health of the workman, it is regarded as a proper extension of the powers of government to prevent the labor unit from

degenerating while temporarily out of use. He must be cared for and kept in a state of efficiency for re-employment, for the army, and for his general functions as a living and contributing organism of the state. Neither circumstances nor the individual's own inadequate powers of resistance must be allowed to transform him into a parasite. The main element of the problem is regarded as psychological, to maintain the human unit in good condition by keeping his spirit in a healthy state of self-respect and courage. After the old, the sick, and the defective have been sifted from the unemployed and cared for each under his classification, and after the police and the magistrates have driven to forced labor those otherwise able yet without the will to work, there remain the capable and the willing for whom there is no work. Official and semi-official labor exchanges make it easy for the person who desires work to be brought into relation with the person or company having work to give. But after all has been done, a surplus remains of workers over the amount of work to do. The solicitude of the state for the unemployed in Germany is greater perhaps than in most other countries, because the imperial policy is to make life at home easy enough and endurable enough to continue to keep Germans in Germany, to give them employment and a sense of security for the future. The German workman does seem to have the feeling that he is upheld by the whole of the splendid and powerful society of which he is an obscure member. Life is dingy, but he feels that he will not be allowed to become submerged utterly, no matter what calamities may happen to him individually or to his trade.

Munich, Dresden, Cologne, Düsseldorf, Mayence, Strassburg, Luebeck, Rostock, Karlsruhe, Elberfeld, Magdeburg, Cassel, Altenburg, Quedlinburg, Erlangen, and Wernigerode are the principal industrial municipalities that are operating some form of so-called insurance for unemployed.

The municipality of Cologne has had since the autumn of 1896, an insurance against hardships from loss of work. The administration is in the hands of a committee created

by the municipal council, consisting of the mayor, the president of the labor exchange, twelve insured workingmen elected by the insured, and twelve honorary members chosen from the long list of prominent citizens who are honorary contributors. The governor of the district, who is an appointee of the Prussian crown, has a supervisory relation to the committee. The fund out of which the insurances are paid was begun by voluntary contributions, amounting to 100,000 marks, of manufacturers, other employers of labor, and honorary members. The city appropriated 25,000 marks. The remainder of the funds during a period of thirteen years since the foundation has been raised by the assessments on insured workingmen; the total from this source, however, amounting to a little more than one-third. The conditions giving a workman the right to participate in the insurance are that he shall be eighteen years of age, have resided at least a year in the Cologne district, that he shall have a regular calling, and that he must have paid a weekly contribution of from thirty to forty pfennigs—that is, seven and a half to ten cents—weekly for a period of thirty-four weeks. He then becomes entitled, should he be out of employment during the winter, from December 1 to March 1, to be paid after the third day of unemployment two marks a day for the first twenty days and one mark a day thereafter until the winter season shall be at an end. As the imperial government's laws concerning insurance against illness or accident provide for these categories, the workman can only continue to receive insurance if he is in sound health and fit for work. He may not benefit if he is on strike or if he has been dismissed through an obvious fault of his own, if he refuses work or has given false information regarding himself. The insurance office is run in intimate connection with the official labor exchange, whose duty it is to know where labor is wanted in any division of effort in the Cologne district and to draw from the body of unemployed enrolled at the exchange those suited to the vacancies that exist. The insured are largely members of the building trades, such as masons, stone-cutters, plasterers, paperers, and carpenters. The re-

sults, therefore, are not regarded as representing what they would be were the insurance to extend over the entire working year and to include every variety of workers. The scheme, however, operated sufficiently well to insure its continuance. The plan has been modified in details from year to year, and has become adjusted to local conditions. Last winter the number of the insured was 1,957. Of this number seventy-six per cent. became entitled to insurance to the extent of 61,934 marks. The insured themselves had contributed 23,439 marks. The remainder of the requirements were paid out of the permanent fund, which, with the exception of 6,000 marks, was restored by a grant of 20,000 marks from the city of Cologne and by contributions from other bodies and persons.

Private persons in Leipsic seven years ago founded a non-dividend-paying company with a reserve of 100,000 marks with the object of insuring against unemployment. The municipality declined to contribute because of socialist opposition, based upon the belief that insurance enterprises of this sort tend to compete with similar provisions of the trades-unions, which pay out yearly in Germany about 5,000,000 marks on account of intermittent employment of their members. The trades-union insurance schemes are usually solvent and well managed. The Leipsic concern divides its risks into four classes. The members pay the equivalent weekly of seven and one-half, ten, twelve and one-half, and fifteen cents throughout the year, the insurance under this arrangement covering the entire year. A special class has also been erected for members of societies, or for entire bodies of workmen in factories, to be insured. The member is qualified for receiving 1.20 marks insurance per day after he has contributed forty-two weeks. The usual conditions of non-payment in case of strike or refusal to accept work or for incapacity for work are attached.

The conflict with the trades-unions has been overcome in the city of Strassburg, by the municipal government cooperating with the trades-unions, and adding one mark per day to the subscription of two marks for each member made

by the trades-unions; or in instances where the payments of the trades-unions were less than two marks, the city shares proportionately. This co-operation has been found to work well. The city insurance office settles monthly with the trades-unions. Only one instance has been discovered of deception on the part of a member of a trades-union who was receiving insurance. One consequence naturally has been that the position of trades-unions has been strengthened. The unorganized labor is taken care of by relief works. In Strassburg as well as in other cities, a close working arrangement exists between the insurance office and the labor exchanges. The co-operation between the trades-unions and the insurance office in Strassburg, has had the advantage of providing the insurance office with accurate information regarding every person in receipt of insurance, and a system of control against deception.

The municipality of Munich has a bill under consideration for paying three marks a day for married men and two marks a day for unmarried, during a period in each year not exceeding eight weeks, to those irregularly employed. The magistrates decide who are to come within the benefits of the municipal insurance fund, which is created by appropriation from the city treasury, by contributions from employers, and by the subscriptions of public-spirited individuals. Düsseldorf has spent during each of two winters half a million marks in public relief works. The twenty or more other German cities that are experimenting with insurance against the loss of work, are doing so upon one or other of the lines already mentioned.

The subject has, however, taken a larger form in German thought than the experiments of municipalities, though these experiments form an interesting body of results. The broad aim toward which German statesmen are thinking is the building of a governmental machinery that shall bring about compulsory thrift on the part of those liable to unemployment, and the compulsory contribution of the employer of labor, with an addition by society, as a whole, to the fund thus created. Employers are not generally opposed to such

a law. Several of the great employing companies of Germany have private systems of insurance; as for instance, the Lanz Machinery Company of Mannheim, which has a capital set apart for the maintenance of skilled workmen for whom the company has provisionally no employment on account of industrial exigencies. The principle upon which the Lanz Company and other companies doing the same thing act is that, when a body of skilled workmen has been brought together and organized with a highly specialized division of labor, the company would suffer a greater loss by allowing the workmen who form trained parts of their industrial machine to migrate to other places in search of work than by paying to keep them ready for re-employment. The Lanz Company also considers that, as it employs men to the full capacity of the works only during brisk times, it is simple justice to give these workmen a share of the accumulated profits during slack times. German companies acting thus toward their workmen have found that an economy was effected by having efficient men ready to fill vacancies or to take up work during periods of expanding business, so that the full profits of expansion could be realized immediately without the delays that might otherwise be caused by training inexperienced men or by getting trained men from other localities—always a difficult thing to do during a period of prosperity.

The Reichstag in 1902 adopted a resolution asking the imperial government to examine into the possibility of insurance against unemployment. The government charged the imperial bureau of statistics to inquire into the subject, and after three years an extensive report was presented to Parliament based upon the beginnings of the experience by German municipalities and in Switzerland and Belgium. Although this volume was published only four years ago, it is out of date because insurance for unemployment has made such rapid progress that data has, from year to year since 1906, been so expanded that anything written one year has become antiquated the next. Count von Posadowsky, while he was imperial minister of the interior and vice-chancellor,

undertook to work out a comprehensive plan for the maintenance of those able to work but for whom no work could be found. He gave the subject much personal attention, and the statisticians to whom he committed divisions of the work brought together a large body of facts and conclusions based upon them. The material, however, could not be brought into a form satisfactory to the analytical and comprehensive mind of Count von Posadowsky. He never submitted the results to the chancellor or to the emperor. The main outlines within which Count von Posadowsky undertook to enclose his scheme are understood to have been compulsory contributions by workmen during the periods of employment, enforced contributions by employers graduated according to wages and the character of the employment, and proportionate contributions from the imperial finances. A consideration that has apparently delayed the imperial government in pushing forward provisions for the idle employable has been the position of the national finances. The annual deficits, covered by annual borrowings on account of large expenses in other directions, caused the feeling that fresh obligations indefinitely large ought not to be undertaken until the imperial expenditures were balanced by revenue. The idea of an insurance against unemployment on a scale comprehending the empire is for the present in suspense, but it is likely to be taken up as soon as financial embarrassments are out of the way. In the meantime, the problem is being worked out by the governments of German states and by municipalities. The imperial government continues to take censuses of unemployed and to make theoretic studies with the ultimate object of devising a national scheme.

The government of Bavaria appointed a commission in November, 1908, to discuss public insurance against results of loss of work. The conference met the following March, and the principal branches of industry, agriculture, the Chambers of Commerce, and the departments of the government were represented. The propertied interests were skeptical regarding the possibility of an equitable distribution of the burdens of such insurance, while economists and the

government representatives took the view for the most part that insurance of this sort was desirable, and that the difficulties could be overcome.

The statistical results of German experiments form already a literature of about eighty pamphlets and books—most of them prepared officially by city statistical offices, or by economists and statisticians employed by municipalities for the purpose. Nearly all the material is accompanied by discussions that in themselves indicate how new the subject is. Herr Dr. Jastrow, who has prepared one of the most lucid commentaries for the city council of Charlottenburg, a suburb of Berlin with 300,000 population, considers that the discussion has advanced far enough for it to be regarded as non-political and that the question need no longer be discussed as it was some years ago by labelling all those who hold ancient views as reactionaries, and those who believe in such insurance as radicals.

The main preliminaries which have been decided by municipalities that have already put into operation some form of unemployment insurance, are that the use of public money for this purpose is admissible, that the results of unemployment are to be considered in principle as a public matter, and that it is technically possible to provide such assurance.

Insurance is based upon statistics that determine the frequency with which a risk would be likely to avail itself of the guarantee. No adequate statistics concerning unemployment, nor long-established systems for premiums and indemnities, exist. It has been affirmed that the need for insurance might depend upon the insured person himself, and that the employed workman could easily cause himself to be dismissed, so that he could receive money without work. The objection has also been made that in other forms of insurance there can be a restoration of the damage sustained, and that the remedy for unemployment ought to be work offered, instead of payments for not working, and that the question would still be open as to whether the insured should accept work that might be distasteful to him. These objec-

tions are considered to-day as having been disposed of by reflections along this line:

Modern statistics of unemployment are imperfect, but life, fire, transport, and casualty insurances were begun without statistics, and created them only in the course of time. Even the imperfect statistics of unemployed to-day are more adequate as a basis from which to work, Herr Dr. Jastrow says, than the statistics were at the time of organizing most of the branches of existing insurance. The objection that the beginning of the benefits of insurance depends upon the will of the insured person himself, has been answered by pointing out that this applies likewise to liability insurance, where bad faith in the person insured is possible.

An objection more often raised than others is that of unemployed strikers. This has been treated by separating unemployed strikers from the unemployed from other causes. In some discussions of this phase of the subject it is considered that even strikers, when an arbitration court organized under the supervision of the government should have decided that the strike was a just one, could avail themselves of the insurance just as though they had become unemployed through the operation of involuntary causes. This phase of the subject indicates the serious obstacles that are yet in the way of a comprehensive insurance system which shall compulsorily embrace all able to work, yet unemployed. The losses that have to be replaced in every kind of insurance do not exist as an effect of detached events, but are a permanent condition daily created under the workings of society and daily effaced, with intervals of greater or less severity.

As in other kinds of insurance, it is economically more reasonable to prevent losses than to pay them. Guarantees against unemployment tend, it is observed, to render communities that are paying unemployment insurance at present more careful of the rights and wrongs of the employer and of the employee, to stimulate measures that prevent unemployment just as fire insurance companies assist in the organizing of fire brigades in places where they do not exist

and as the invalid insurance department of the government spends considerable sums for the care of tuberculous patients in order to prevent the spread of a disease that will add to the losses. The difference between insurance against unemployment and other branches of insurance is that the policy of prevention lies open in a specially high degree. New questions of dispute have arisen, as, for example, what kind of work can be reasonably provided for the unemployed. Is not a watchmaker justified in refusing to take temporary work shovelling snow, because hard manual labor will thicken the cuticle of his hands so that he is disabled from working at his delicate trade should he have an opportunity to do so? Arbitration courts have been organized in cities experimenting with unemployment entrusted with the decision of such cases, and their verdicts are usually recognized as fair.

The German delegates to the International Congress called to meet in Paris, in September, to consider means for combating unemployment, were prepared to submit to the Congress full narratives of German experience with contingent payments to unemployed. The delegates include Herr von dem Borght, president of the Imperial Statistical Office, Government Councillor Bittmann of Karlsruhe, Dr. Freund, the chairman of the Association of German Labor Exchanges, Prof. Dr. Francke, and Dr. Zacher, a director of the Imperial Statistical Office.